



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Saturday, the 17th November, 1951

## OFFICIAL REPORT

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THE  
**CONSTITUENT ASSEMBLY OF PAKISTAN  
DEBATES**

[Official Report of the Tenth Session of the Constituent  
Assembly of Pakistan]

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Volume X—1951

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**CONSTITUENT ASSEMBLY OF PAKISTAN**

*Saturday, the 17th November, 1951*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Three of the Clock, in the afternoon, being the First Day of the Tenth Session of the Constituent Assembly of Pakistan, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

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The proceedings of the Constituent Assembly commenced with a recitation from the Holy Quran by Maulana Mohammed Akram Khan.

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**MEMBERS SWORN**

The Honourable Khwaja Nazimuddin (East Bengal : Muslim)

The Honourable Mr. Mushtaq Ahmad Gurmani (Punjab : Muslim)

Syed Ghulam Bhik Nairang (Punjab : Muslim)

Syed Khalil-ur-Rahman (Punjab : Muslim)

Shaikh Sadiq Hasan (Punjab : Muslim)

Sardar Amir Azam Khan (Punjab : Muslim)

Malik Shaukat Ali (Punjab : Muslim)

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**PRAYERS**

**The Honourable Khwaja Nazimuddin** (East Bengal : Muslim) : Sir, the other day at a meeting of the Legislature, we passed a condolence resolution. Today, I propose that we pray for the departed soul of the late Prime Minister, if you agree.

**Mr. President** : I think it is the desire of all of you that we should accept the request of the Prime Minister and pray for the souls of our departed Leader and the other two members. Ladies and gentlemen may now rise and stand in silence for two minutes and those who wish to pray for the souls of the departed members, may do so.

(After a pause of two minutes)

**Mr. President :** Thank you, ladies and gentlemen.

**The Honourable Khwaja Nazimuddin :** I propose that the House be adjourned for ten minutes as a mark of respect.

**Mr. President :** The House stands adjourned till 3-20 p.m.

The House then adjourned till Twenty Minutes Past Three of the Clock in the Afternoon.

The Constituent Assembly of Pakistan reassembled at Twenty Minutes Past Three of the Clock in the Afternoon, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

#### THE CONSTITUTION (SECOND AMENDMENT) BILL

**The Honourable Pirzada Abdus Sattar Abdur Rahman** (Sind : Muslim) : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947.

(After a pause.)

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, I beg to move :

“That the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947, be taken into consideration.”

Sir, this is....

**Mian Muhammad Iftikharuddin** (Punjab : Muslim) : Sir, I object to the taking up of this Bill into consideration....

**Mr. President :** On technical grounds ?

**Mian Muhammad Iftikharuddin :** Yes, Sir. I am not discussing the merits of the Bill at all....

**Mr. President :** Then, it becomes a point of order.

**Mian Muhammad Iftikharuddin :** My reasons are that it is always expected that the Bill will be first introduced and then time given for the amendments to be sent. Even though the text of the bill, as....

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** This is not a point of order.

**Sardar Shaukat Hyat Khan** (Punjab : Muslim) : Have some patience !

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** It is not a point of order.

**Mian Muhammad Iftikharuddin :** Even though the text of the bill had been circulated....

**Mr. President :** Can you point out any rule which has been infringed ?

**Mian Muhammad Iftikharuddin :** Certainly, Sir. I will point out. Reference is invited to Rule 56 which says that when a motion that a Bill be taken into consideration has been carried, any member may

propose an amendment of the Bill. Formally speaking, we are to move the amendments to this Bill after the introduction has been accepted. Then, Sir, Rule 57 says :

"If notice of a proposed amendment has not been given two clear days before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the amendment to be moved."

Now the position is that the fact that amendments can be moved is a special concession given by the President. Actually the amendments ordinarily can only be moved after the Bill has been introduced.....

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** No, no.....

**Mian Muhammad Iftikharuddin :** One does not know after the introduction of the Bill whether the proposal to circulate it for public opinion, or to refer it to a Select Committee, is accepted. If either one of these proposals is accepted the amendments become redundant. Therefore, Sir, even taking it from the ordinary commonsense point of view, the bill should be formally introduced and after that, time be given for amendments. I think, Sir, rules apart, commonsense.....

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Rules apart !

**Mian Muhammad Iftikharuddin :** ....commonsense demands that the Bill will be first introduced and a couple of days then allowed. Sir, I am talking from two points of view : One is technical point of view which I have stated with your permission and the second is the commonsense point of view and....

**The Honourable Sardar Abdur Rab Khan Nishtar (Punjab : Muslim) :** Is it commonsense or special sense point of view !

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, I am not surprised at such a motion coming from my Honourable friend. Obviously he does not know the distinction between proposal to make an amendment and notice for sending an amendment. Rule 56 talks of amendments. As soon as the consideration has been accepted by the House and the Honourable President takes it clause by clause, then you will propose an amendment. That is what this rule talks of. Rule 57 does not talk of proposal, but notice to give amendments ; and notice may be given two days before.

If the Honourable Member would please refer to the Bill, which I hope was in his possession when he was talking about it, he will see it was published on 2nd of November and today is the 17th—fifteen days ago the Bill was published, and according to the rules when the Bill is published in advance, then it can be taken up on the same day for consideration. And further, if the Bill has been published and the members want to make any amendment or send notices, they have to send two days before. The Honourable Member has slept over the Bill. It has come to his notice when he entered the House. There is no question of propriety or rules. It is clear and simple. He cannot blame the rules and ....

**Mr. President :** There is one thing which requires explanation ; it is this : According to Rule 57 amendments have to be tabled two clear days before the day on which the Bill is to be considered.

**The Honourable Mr. Fazlur Rahman (East Bengal : Muslim) :** Yes !

**Mr. President :** When was actually the notice for taking the Bill into consideration published ?

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** 2nd November. I gave notice on the same day when I sent the Bill to the Constituent Assembly requesting that I will move the Bill for consideration on the same day....

**Mian Muhammad Iftikharuddin :** Sir, there are two things : it is one thing to say that the Honourable member....

**Mr. President :** It appears that there was some remissness on the part of the office.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** I have given my notice....

**Mr. President :** On what date the members received this notice ?

**Some Honourable Members :** On the 13th November.

**Mian Muhammad Iftikharuddin :** It was sent on the 13th. Most of the members were in plane or trains coming here. But the post will, of course, be re-directed !

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** The Honourable member did not mean that when he raised the point, I am sure. Sir, may I make a submission. The Honourable Member has not actually raised that point. Obviously, he does not want to raise that. He does not seem to be affected by that.

**Mr. President :** He has practically raised that point when he refers to rule 57. He has said that amendments are to be given two clear days before the date on which the bill is to be taken into consideration.

**Mr. Abdulla al-Mahmood (East Bengal : Muslim) :** May I just draw your attention to rule 47—Motions after introduction—When a Bill is introduced or on some subsequent occasion, the Member in charge may make one of the following motions in regard to his Bill, *viz.*, (a) that it be taken into consideration by the Assembly either at once or at some further day to be then specified. Now, Sir, as the Honourable Mr. Pirzada has already said that the Bill has been circulated on the 2nd November so under rule 47, he can just move the motion for consideration and the President is quite entitled to take the motion for consideration at once. Therefore there is no argument in saying and quoting Rule 57 that the amendment requires two day's notice and it is within the competency of the President to waive that two day's notice, *i.e.*, under rule 47 the Bill can be taken into consideration at once.

**Shri Dhirendra Nath Dutta (East Bengal : General) :** Mr. President, Sir, this motion can be immediately moved that the Bill be taken into consideration. But, Sir, we are not only considering the Bill but we are considering the Bill clause by clause. If you look to rule 57, when a motion that the Bill be taken into consideration....

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** That can be taken up when the Bill is moved clause by clause. Here it is the motion for consideration of the Bill. I say I am quite in order in moving the motion for consideration. I am not talking of the Bill to be taken up clause by clause. When that motion comes, you can raise that objection. This is not the time for that.

**Shri Dhirendra Nath Dutta :** The Bill may be taken into consideration today, but, Sir, clauses of the Bill cannot be considered.

**The Honourable Mr. Fazlur Rahman :** That we will see. When a point of order is raised, we will come to that.

**Shri Dharendra Nath Dutta :** Very well, we shall raise a point of order when that stage comes.

**Mian Muhammad Iftikharuddin :** If you give me one minute, I would just point out that not only for the objection that has been raised by yourself and by members on this side, but also for another reason, namely, that the House should have its own conventions. I think it is necessary and right always to give ample time to members to give notice for amendment because unless formally the House accepts the Bill, there is no point in giving amendments. As for Pirzada's objection, that I have not read the Bill, I say, I have read the Bill. We will, of course, be quite justified in not reading it, because the Minister himself does not know anything about the Bill. The office or the Department draft is for the Minister.

**Mr. President :** It comes to this that so far as the present motion is concerned, that is in order. If the Bill is sought to be considered clause by clause, then probably the other question might arise.

**The Honourable Mr. Fazlur Rahman :** Might or might not arise, we will see to that.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, I beg to move :

"That the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947, be taken into consideration."

This Bill, Sir, deals with various aspects of the Government of India and the Indian Independence Act. In the first instance, Sir, it is the intention that power be given to the Governor-General with regard to the partially excluded areas to determine their status and a provision has been made in that connection.

With regard to citizenship, which is clause 2, it was brought to my notice that there were certain defects or doubts which had to be cleared and therefore an amendment has been moved in that connection. I am not going to say anything so far as this clause is concerned, it is for the House to accept this clause or not to accept it.

Then, Sir, Clause 4 remedies some drafting error which was made at the time of Partition and then after that, Sir, comes the provision with regard to the powers of the Governor-General which are being given to him to raise the status of a particular Court into that of a High Court. Formerly these powers before Partition and even upon now, were exercised by His Majesty by Letters Patent, that the status of a Court was raised and I think it is quite consistent that these powers should be exercised by the Governor-General and not by the King and in that respect, therefore, a provision has been made empowering the Governor-General to raise the status of a Court into that of a High Court.

Then, Sir, another important amendment is with regard to the seats that we have given to non-Muslims as General Seats in the Sind Legislative Assembly. At the time of moving my last Bill, amending the Constitution in that respect, I had provided for 107 total seats in Sind out of which 6 are given to non-Muslims as General Seats on the basis of the population figures that were available with us at that time. You would remember, Sir, that it was a rough estimate by which we had arrived at this figure and now that final and correct figures have come into our possession, I find that the population of non-Muslims in Sind is 4½ lakhs and we have given seats on the basis of 45,000 population for one seat and this entitles them to 10 seats exactly and therefore, I am

[The Honourable Pirzada Abdus Sattar Abdur Rahman.]  
 raising their number from 6 to 10 and raising the total number of seats in Sind Legislative Assembly from 107 to 111 and therefore a provision in that respect has been made in this Bill.

Then, Sir, another important aspect in which I am seeking amendment of the Government of India Act is the right of vote to give to the persons who are holding public offices, are government servants, or are members of the armed forces. You would know, Sir, that there is a provision in the Government of India Act with regard to residence qualification that until and unless you have stayed for a period of six months or so in that particular constituency, by a particular date, you are not entitled to give any vote in that constituency. Now, this makes it very difficult for the people holding public offices, or are government servants and are members of the Armed Forces to be enrolled because they will be away from their normal residence and, therefore, they will not be thus entitled to have their votes. Therefore a provision is being made in that respect that if any persons are so employed in public office or are government servants, or are in the armed forces, then this residence requirement will be waived in their cases.

I am further, Sir, making provision with regard to the exercise of vote by these people. They are usually away at the time of election and it is a large number of our population who are usually not able to exercise their votes at the time of election because of that reason. Members of armed forces, public servants and persons holding public offices are unable to cast their vote. Therefore, I am amending the Act in order to give them an opportunity to exercise their vote by post. Ample arrangements will be made in that respect so that everybody is able to exercise his vote and a provision of that has been made in the Bill.

Then, the last provision that I have made with regard to the amendment of the Indian Independence Act, there are certain orders made by the Secretary of State in Council about which it is doubtful whether the Governor-General has got the power to amend them or whether we have got to come to the Constituent Assembly all the time. Now, whenever we want to amend the Government of India Act or the Indian Independence Act, that means the Constitution Act, we rightly come to the Constituent Assembly. There are certain orders made by the Secretary of State of a formal nature for the removal of doubts or where certain amendments have got to be moved. Therefore on those occasions mere order of the Governor-General will do. Therefore powers are being conferred on the Governor-General to enable him to remove those doubts and to make certain amendments. These are, Sir, all the provisions that I have in my Bill and in all these respects I want the constitution to be amended.

**Mr. President :** Motion moved :

“That the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947, be taken into consideration.”

**Mian Muhammad Iftikharuddin :** The objection which was raised by my honourable friends over there will be taken up after this.

**Mr. President :** We are now considering the motion that the Bill be taken into consideration.

**Mian Muhammad Iftikharuddin :** The question that it can be taken into consideration clause by clause will be taken up later. My question is whether the stage for taking up the objection that I raise has come or not ?

**The Honourable Mr. Fazlur Rahman :** Not yet.

**Mian Muhammad Iftikharuddin :** Now I will speak about the Bill generally. I think the last item mentioned by the Honourable Pirzada Abdus Sattar is important. It comes up almost in every Bill that is brought before the Constituent Assembly, *viz.*, whether a certain power is enjoyed by the Secretary of State or by the King and if the same power can be given or has been given to our Governor-General or to this Legislature. That question has been coming up as you will bear me out during these last four years. I think that question can be solved by three lines if we no longer are a part of the British Empire or British Commonwealth of Nations. That will free us from all these complications and if the party in power thinks that this is a very big decision which they dare not take, they should then make it clear in this House because most of us in Pakistan think that we should not receive authority of the State through the agency of his Imperial Majesty the King or the Emperor so that being very clear in the minds of most of the Pakistanis, it is really surprising for them that why the ruling party does not bring up a motion whereby we cut away ourselves from those ties and become more worthy of the Objectives Resolution which we passed a couple of years ago.

**Mr. President :** Will that automatically amend the law ?

**Mian Muhammed Iftikharuddin :** That would, Sir. When we are a free people the question whether the Secretary of State or the Governor-General enjoys a certain power will go. We will be making our own laws. His Imperial Majesty or the Secretary of State will not come in. This is my simple proposal but if the people on the other side consider that such a big decision cannot be taken in this august House, then they should make it clear to the people of Pakistan so that they may know how our leaders think.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, I do not think any reply is needed because Mian Sahib has always his own special procedures by which he wants to achieve every thing, whether they are constitutional, legal or otherwise, that never affects him. I think this would be enough to say.

**Mr. President :** The question is :

“That the Bill further to amend the Government of India Act, 1935 and the Indian Independence Act, 1947, be taken into consideration.”

The motion was adopted.

**Mr. President :** (to the Honourable Pirzada Abdus Sattar Abdur Rahman) : Would you like to move the next motion ?

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, as I submitted earlier, I had given my notice quite in time and the Bill was published in time....

**The Honourable Mr. Fazlur Rahman :** Sir, it is not required for us to move a motion that the Bill be taken into consideration clause by clause. As soon as the motion is carried it is in the discretion of the President to submit the Bill to the consideration of the House clause by

[The Honourable Mr. Fazlur Rahman.]

clause. Now if you take it and we think there is no reason why you should not and if you submit the Bill to the consideration of the House clause by clause as is provided in rule 59 where it is stated :

" Notwithstanding anything in the rules it shall be the discretion of the President when a motion for consideration has been carried to submit the Bill or any part of the Bill to the Assembly clause by clause."

Now, when you take the Bill clause by clause then the question of amendments comes in and then the provisions of rule 57 will be relevant. Before that rule 57 will not be relevant at all. If any amendments come then they can take objection to them because of short notice, but even then the President has always the power to allow short notice.

**Shri Dharendra Nath Dutta :** Really just now my honourable friend wanted to know at what stage that objection shall be raised and it has been agreed that the objection will be raised when the Bill is taken up clause by clause. Now rule 57 says that if notice of the proposed amendment has not been given two clear days before the day on which the Bill is taken into consideration, any Member may object to the moving of the amendment and such objection shall prevail. The position will be quite clear if you read rules 56 and 57 together, *viz.*, that an amendment may be moved only after the Bill is taken into consideration but these amendments can be moved only if the notice of the amendment has been given two clear days before. So, Sir, it comes to this. If the Bill is taken up clause by clause now no amendment can be moved because objection can be raised that notice of the amendment must be given two clear days before and therefore I submit Sir, that the clauses of the Bill cannot be considered today.

**The Honourable Sardar Abdur Rab Khan Nishtar :** May I through you put a question to the honourable member to get a point clarified ? Will he kindly quote the authority for the proposition that notice of amendment can be given only when the motion for the consideration of the Bill is carried ?

**Mr. President :** He has not said that.

**The Honourable Mr. Fazlur Rahman :** Sir, he has not read the entire rule 57 and it will not be fair to say anything about it unless the whole clause is read. You will see, Sir, that if notice of a proposed amendment has not been given two clear days before the day on which the Bill is taken up, what will happen. Any member may object to the moving of the amendment, *i.e.*, to the short notice of the amendment and such objection shall prevail unless the President—here comes that point—in the exercise of his powers suspends this rule and allows the amendment to be moved. Now, Sir, if you find that an amendment is of such a nature that you can allow it to be moved and which does not cause inconvenience to the Members and if you think that the amendment is of such a simple nature, then usually you exercise your discretion in favour of allowing the amendment and you suspend the rule. With regard to the other amendments for which notice is required as my honourable colleague has pointed there is no such rule here that you cannot give notice of the amendment to the clauses which were known to you 15 days before, unless the motion taking the Bill into consideration is passed. Therefore, Sir, neither on the ground of fairness nor on the ground of commonsense can this be sustained that the Bill cannot be proceeded with clause by clause. On the other hand, if the consideration motion is passed the only logical conclusion is that it should be proceeded with at once clause by clause otherwise it will mean the waste of time of the House.

**Mian Muhammad Iftikharuddin :** Sir, the Honourable Member did not read rule 56 which says :

“When a motion that a Bill be taken into consideration has been carried, any member may propose an amendment of the Bill.”

That means that it is within our power and we are permitted to move an amendment after the question of introduction has been decided. Therefore, after the introduction of the Bill, two days' clear notice must be allowed. Of course, the President has right to waive any rule he likes. In fact, he can adjourn the House at this moment and say that we meet again on Monday. But we are talking of the rule at the moment. Every member has the right to move an amendment after the introduction of the Bill.

**Mr. President :** He has the right.

**Mian Muhammad Iftikharuddin :** But, then, read the next rule 57 which says that two clear days notice must be given. Therefore, it is necessary that the consideration of the Bill be taken up two days later. It is a logical conclusion.

**The Honourable Sardar Abdur Rab Khan Nishtar :** No ; it is the circulation which should take place three days before that.

**Shri Kamini Kumar Dutta** (East Bengal : General) : \*Sir, rule 57 says :

“If notice of a proposed amendment has not been given two clear days before the day on which the Bill is to be considered .....”

By implication, it means that the Members of the House must have at least notice of two clear days prior to the motion for consideration is moved. The import of this rule 57 is this that it implies that each Member must have a clear notice of two days prior to the motion for consideration. Now, ‘notice’ of course, means the notice to the members and not notice in the House. This will be the ordinary interpretation of this rule. So, after reading this rule there remains absolutely no doubt that the members must have two clear days' notice prior to the moving of the motion for consideration. We should also read rule 47 with this rule. Rule 47 says :

“When a Bill is introduced or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely :—

(a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified.”

Apparantly, the notice must be very clear and specific whether the motion is for the consideration of the Bill at once or at any other date to be specified. Even now the motion moved by the Honourable Member is not very clear. He simply moved the motion that the Bill be taken into consideration. He has not said that it be taken into consideration at once. So, reading this rule with rule 57, the only rational interpretation would be that there must be two clear days' notice to the members that the Bill would be taken into consideration either at once or at some date to be specified afterwards. In this case no notice was sent to the members two days prior to this motion. We practically got the notice only when we entered the House. And we are now told that the Bill be taken into consideration at once. I will also refer to rule 59 in this connection which gives full power to the President in this respect. So, the clauses ought not to be considered today and a future date ought to be fixed for the consideration of the Bill.

(At this stage Shri Dharendra Nath Dutta rose and caught the Honourable President's eye.)

**Mr. President :** (to Shri Dhirendra Nath Dutta): Have you got anything to add to what Mr. K. Dutta has said ?

**Shri Dhirendra Nath Dutta :** \*Yes, Sir. In this rule the amendment of the Bill means the amendment of the clauses of the Bill. That is clear from rules 56, 57 and 62. There is no rule which makes a distinction with regard to the amendment of the Bill and the amendment of the clauses of the Bill.

**The Honourable Mr. Abdul Hamid** (East Bengal : Muslim) : Rule 57 puts the mover of the amendment under certain obligations and not the mover of the Bill. Therefore, that rule cannot be used against the mover of the Bill.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, may I ask your permission to explain the whole things as there seems to be some misunderstanding. There is a provision in rule 57 which clearly says that if an amendment is sent after the period of two days, the President may allow the amendment in his discretion. It may be that the members did not get the notice of this Bill early enough, not even giving them two days, which is not correct. The Bill was circulated on the 13th, which is more than two days clear notice because today is the 17th.

**Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : What do you mean by 'circulation' ? It must reach me in time.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** It was sent from here to the members on the 13th.

**Shri Sris Chandra Chattopadhyaya :** No agenda was sent to us.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Allow me to proceed and I will be able to meet your objection. Supposing it was not sent on the 13th or the 14th, but they did receive it this morning and it was their duty to have sent their amendments immediately. They could have requested you to exercise your discretion under rule 57 and allow them to move amendments. That is the proper procedure. This rule operates against the sending of the amendments. The amendments are to be sent two clear days before otherwise they will not be taken into consideration at all.

Now, if the Honourable Members argue that time was not given to them, they came to know of this Bill at least this morning. They could have sent their amendments and made a request to you that this rule is there and they may be permitted to move them. They have not done this. Not a single amendment has been sent by any member. Even now they can move an amendment and you can allow them to do so. But they have not moved a single amendment and I am certain they have none to move and unnecessarily they are taking this objection. Clause 57 does not operate against the Bill if it is taken clause by clause.

**Shri Sris Chandra Chattopadhyaya :** Sir, this Bill was posted on the 13th and it cannot reach Dacca even by Air before the 17th. So, we did not receive the Bill nor did we receive any agenda.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Sir, unfortunately the provision which has some relevancy to the question under discussion has not been referred to at any stage. The point of giving notice for motion that the Bill be taken into consideration does not arise at this stage. There are rules which lay down that so many days notice must be given for such a motion and they have been complied with.

For the purpose of facilitating the moving of amendments a provision has been made in the rules that a Bill should be circulated at least three days before it is taken into consideration. I will just refer to it. The idea of circulation at least three days before the consideration motion is to give an opportunity to the members to move amendments if they like to do so because for amendments two days' notice is required. On this point I will refer you to rule 47, proviso. Mian Sahib and his supporters conceded a point which they should not have conceded but that stage has gone. They should blame themselves for it. That stage was when the motion for 'consideration' was made under rule 47. The proviso to rule says :

"Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made and such objection shall prevail unless the President in the exercise of his power to suspend this rule allows the motion to be made."

Now when that motion for consideration was made they did not say that the Bill has not been circulated three days before the motion for consideration and therefore they object to the motion for consideration. At that time they conceded that motion for consideration can be made and now that the motion for consideration has been made and objection under the proviso has not been taken and not only that the motion has been made but it has actually been carried that stage is over. Now at this stage of consideration of clauses of the Bill no objection can be taken. There is no provision for any objection being raised at this stage. Now they are on the defensive and mover of the Bill on the offensive. If they want to move amendments to the clauses of the Bill he can object that two days' notice has not been given in respect of the amendments and therefore they cannot move any amendment. It is a different matter that in view of the misunderstanding or lapse on the part of somebody in not taking objection under a right provision they claim concession. I do not know whether the mover of the Bill would concede on that point or you will be pleased to allow them to move amendments without notice ; that is quite a different thing. The Chair has got the power and discretion to allow any amendments to be moved but the real point is this that motion for consideration could be objected to under this proviso if the members could show that the Bill has not been circulated at least three days prior to today. That law was not quoted or the Bill was circulated in time ; that is why objection was not taken. The Bill I understand has been circulated more than three days ago that is why they conceded that point and they did not object on the ground when the motion for consideration was made. Now that they have conceded that point and the motion has been made and carried and we have gone a stage further and the Bill is to be considered clause by clause, there is no rule on the lines of which objection could be raised at this stage. It is entirely within the discretion of the Chair to allow consideration of Bill clause by clause and it is also entirely within the discretion of the Chair to give concession to the mover of the amendments if any to move their amendments without the requisite notice.

**Mr. President :** I would not allow any further discussion.

*(Interruptions by Mian Iftikharuddin.)*

**Mr. President :** Order, order.

**Mian Muhammad Iftikharuddin :** Sir, I would like to say something on a point of personal explanation. We are not Opposition and Government in this House ; we are individual members. As is clear from the stand taken by me it could not be taken into consideration today. Therefore, I want ruling on that.

**Mr. President :** When so many eminent lawyers take part in a question intricacies are bound to occur and I think the matter has become sufficiently complicated by now. I think the various rules have to be read together in order to come to the intention of the framers of these rules. Now Nishtar Sahib has pointed out that opportunity has been lost to object to the motion for taking the Bill into consideration. Technically that may be correct ; but that also may not be correct for two reasons. One is that when the motion was being moved and sought to be pursued then some sort of assurance was received by Mian Iftikharuddin that there will be another opportunity to raise the question whether the Bill could be taken up clause by clause. The other point, which should be taken into consideration and noted by all the Members of the House, is that notices of motions for taking Bills into consideration are generally defective to a certain extent. According to terms of rule 47, the motion should be of this nature :

“(a) that it be taken into consideration by the Assembly either at once or at some future date to be specified.”

Here the motion did not say that the Bill was to be taken into consideration at once nor did it specify any other particular date. In this respect the motion was defective. I would like the Honourable Members to note generally that all such notices hitherto given have been defective to that extent. In future that defect should not come into the language of such motions. Now this is another reason why a Member might think that he would get another opportunity to take that objection. It has been pointed out that so far as rule 57 is concerned that deals with amendments only and that if an amendment has not been given sufficient notice of then objection may be taken by some other member but the President might over-rule that objection and may allow the amendment to be moved. That is no doubt the main purpose of that rule. But that rule also gives us indication about another thing. The rule says that two clear days' notice of an amendment has to be given—two clear days' notice. Now in reply to that it has been said that if a Member has not given two clear days' notice still he may be allowed to move the amendment by the President and as such the two days mentioned in the Rule are not mandatory. But a Member may think why should he crave the indulgence of the President and depend upon the mercy of the President ; why should he not stand on his own rights by giving two days' notice which he is required to do under this Rule. If he has an obligation to give two days' notice then he must also have a corresponding right of having notice of the main motion, at least two days before the motion is to be moved.

**The Honourable Mr. Fazlur Rahman :** I respectfully submit that they do not want notice of the motion but they say that they should have the Bill before them.

*(Voices from the Opposition Benches : Order. Order.)*

**The Honourable Khwaja Nazimuddin** (East Bengal : Muslim) : May I draw your attention to another motion which the Honourable the Mover of the Bill has given notice of : “Also to move that the Bill be passed.” Here clearly he intended that the Bill should be passed on the very day. He, therefore, intended that the Bill should be taken clause by clause and

that when that was done he was going to move further that the Bill be passed that very day. You said, Sir, that there is no indication whether the Member was going to move that the Bill be taken into consideration clause by clause that very day or at a later date. But I submit that in view of the fact that notice was given that the Bill be passed, which presupposes that the Bill will be taken up clause by clause, and when that is carried, then alone the further motion will be moved. This taken together makes it absolutely clear that Government intended that the Bill be taken immediately and at the same time when that stage has passed they are going to move further that the Bill be passed also.

I submit, Sir, that as far as the Members are concerned, they had ample notice of the intention of the Government that the Bill should be taken up immediately, and may I submit, Sir, just one point that as far as this notice is concerned, the main issue is that the Honourable Members have not received the notice in time for them to move amendments. The accepted practice is that if a notice has been issued in time, the fact whether the Members have received it or not is not material. The important point is that the office issued the notice to the Members on a date which provided for time to allow them to give notice of their amendments.

**Mr. President :** When was the notice given about the introduction of the Bill, not the notice about the Bill being taken into consideration ? You gave the notice quite in time.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** There was a misunderstanding. May I request that for a proper understanding the notice be read to the House. I have made quite clear in the notice that I will move that the Bill be taken into consideration on the same day as I have introduced it.

**The Honourable Mr. Fazlur Rahman :** As I have drawn your attention to this, I wish to make only one point. The notice of amendment requires two days, not after having the notice of the motion that the Bill be taken into consideration. If the Bill is in their possession, say, for two days or three days and they are in a position to give notice, then it is enough. Now, is it wrong to say that the Bill be taken into consideration or that should be given notice of and they can move the amendments. The amendments can be moved as soon as the Bill is introduced.

**Mian Muhammad Iftikharuddin :** How are we not permitted to speak ? Everybody has made speeches.

**Mr. President :** No one is going to speak any further. Now Pirzada has referred to the actual wording of the notice. I am reading out the notice to you :

"I give notice of my intention to introduce during the next Session of the Constituent Assembly a Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947, a copy of which, together with the Statement of Objects and Reasons, is enclosed. After the introduction of the Bill I also propose to move on the same day that the Bill be taken into consideration and passed. I, therefore, request you to obtain the orders of the President for the publication of the Bill in the *Gazette of Pakistan* under Rule 43. I also request that with a view to complying with the provisions of Rule 47 copies of the Bill may be made available to Members at least three days before the date of the introduction of the Bill."

The Honourable Minister has not referred to one thing. I said that according to clause (a) of Rule 47, the notice must state that the Bill is

[Mr. President.]

proposed to be taken clause by clause either at once or at some future date. To that the Honourable Prime Minister says that if.....

**Mian Muhammad Iftikharuddin** : Nobody is Prime Minister here.

**Mr. President** : Khwaja Nazimuddin says that from the notice given by the Honourable Member in question it was clear that his intention was that the Bill should be taken into consideration at once because he said in the same notice that the Bill should be passed on that day.

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : We did not know of that notice. That was on the official file.

**Mr. President** : If the whole thing is taken together, then probably it might be amenable to that explanation, but that is not the only difficulty. This was rather a minor difficulty. The other difficulty was as was pointed out with regard to Rule 57. If two days' notice is necessary for an amendment, in that case at least two days must be given to Members about the consideration of the main motion, so that they might give notice of amendments two clear days before the Bill was taken into consideration. Therefore, if a particular Member takes a technical objection under the rule that he was prejudiced, he could not go through the Bill properly because he did not know in time that the Bill was going to be taken into consideration on a particular day. All that he was sure of was that the Bill was to be introduced on that day, but he did not know in good time whether the Member in question would like to take the Bill into consideration that very day. That being so, if a Member thinks that he is aggrieved, then I think he stands on a sound position. So if Members insist that they are prejudiced and that they did not get time enough to study the Bill properly and could not, therefore, table amendments, I think they.....

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : That they must prove.

**Mr. President** : Then I have to take up the objection.

**The Honourable Khwaja Nazimuddin** : We would like to know whether the Government was at fault in any way in the notice that they had given.

**Mian Muhammad Iftikharuddin** : There is no Government here. Government does not come in here at all.

**Mr. President** : Actually, here every Member is a Member of the Assembly in individual capacity and not as a Member of Government. Further, that is a matter which has been made clear on several occasions. But as the two Houses are practically the same such mistakes are natural on both sides.

Khwaja Nazimuddin has asked whether the Member who gave notice of the Bill was at fault in any way. If he was at all at fault, it was in respect of the wording of the notice, that is to say, that he did not specifically say that he wanted the Bill to be taken into consideration whether at once or at some future date.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : I have said it on the same day. Will you kindly read it again ?

**Shri Sris Chandra Chattopadhyaya** : You are challenging the ruling.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : No, No.

**The Honourable Khwaja Nazimuddin** : We are old enough Parliamentarians to know that. You wait and see.

**Mr. President :** Pirzada says that he made it clear in his notice. I do not think it is so. He says :

“ After the introduction of the Bill I also propose to move on the same day that the Bill be taken into consideration and passed.”

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** What else shall I say ?

**Mr. President :** You did not say that the Bill be taken into consideration the same day.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** I have said the same day, Sir.

**Mr. President :** But he has used the word ‘passed’. So far as this is concerned, the notice incorporates the subject matters of two notices. One notice should be to the effect, “ I propose the Bill to be taken into consideration either at once or at some other subsequent day and there should be a second notice to the effect that if that notice is passed, ‘I would also like to move that the Bill be passed’. In fact, if we analyse the whole thing, it is not quite in order, but generally notices are given in this manner.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** This has been the procedure for the last four years and no objection was taken to this !

**Mr. President :** Since no objection was taken, this thing was not gone into.

Rule No. 60 has been pointed out to me :

“ When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.”

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** That is what I have done, Sir.

**Mr. President :**

“ If any amendment of the Bill is made, any member may object to any motion being made, on the same day, that the Bill be passed, and such objection shall prevail, unless the President in the exercise of his power to suspend this rule, allows the motion to be made.”

Then :

“ Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.”

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** This makes it clear.

**Mr. President :** It is quite true that this practice has been followed and no objection was taken. For this reason this matter was not gone into as carefully as we have done today. But I think simply because this practice has gone on, we should stick to it even if it is not in accordance with the rules. If it is found that there was any defect in the practice .....

*(Interruptions.)*

**Mr. President :** Order, order.

I have already given my ruling, but Khwaja Nazimuddin wanted to know whether there was any remissness on the part of the member who gave notice. I have already pointed out the position with regard to that. But there was some fault on the part of the secretariat. As soon

[Mr. President.]

as a notice is received from any member to the effect that he wants a particular Bill to be taken into consideration on a particular day, then that notice should be circulated forthwith and that notice must reach the members at least two days before the Bill is sought to be taken into consideration. But in this a confusion might have arisen : we have got the Steering Committee of the Constituent Assembly that settles the order of business. The Steering Committee did not meet two days before the Bill was to be taken into consideration and the secretariat might be under the impression that they were not required to circulate that notice before the Steering Committee came to any decision. But, I think that attitude should not be adhered to in future. The Steering Committee may or may not act in a particular way, but as soon as a notice comes to the effect that a particular member wants a Bill to be taken into consideration on a certain day, the notice should be circulated forthwith to the members. I think that settles the question.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** I am asking a question, Sir ? I had made a request in my notice that under Rule 47, copies of my Bill should be made available. Were the members informed ?

**Some Honourable Members :** No.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Why not ?

**Mr. President :** I said there was some remissness on the part of the secretariat.

**The Honourable Mr. Fazlur Rahman :** We must know the decision ?

**Mr. President :** We must now adjourn for prayers.

**The Honourable Sardar Abdur Rab Khan Nishtar :** Where do we stand, Sir ?

**The Honourable Mr. Fazlur Rahman :** How the matters stand now ; what will be the next procedure ?

**Mian Muhammad Iftikharuddin :** He will introduce the next Bill.

**Mr. President :** The Bill will have to be taken clause by clause on a subsequent day.

**The Honourable Mr. Fazlur Rahman :** What subsequent day, Sir ?

**Mr. President :** Already the members have got one day's notice.

**Mian Muhammad Iftikharuddin :** That is for you to decide.

**Mr. President :** Monday will be quite all right, I think.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** I am satisfied ; let us have it on Monday.

**Mr. President :** We have to adjourn for *Asar* prayers now.

**The Honourable Mr. M. A. Khuhro** (Sind : Muslim) : Let us meet on Monday, Sir ?

**Mr. President :** The House stands adjourned till Twenty Minutes to Five.

The House then adjourned till Forty Minutes Past Four of the Clock in the Evening for *Asar* prayers.

The Constituent Assembly of Pakistan re-assembled at Forty Minutes past Four of the Clock in the Evening after *Asar* Prayers. Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

**Mr. President :** So we have decided that the Bill further to amend the Government of India Act, 1935, and the Indian Independence Act, 1947, may be taken into consideration clause by clause on Monday next.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** That is right, Sir.

THE DELIMITATION OF CONSTITUENCIES (ADULT FRANCHISE)  
(AMENDMENT) BILL

**The Honourable Pirzada Abdus Sattar Abdur Rahman** (Sind : Muslim) : Sir, I beg to introduce the Bill to amend the Delimitation of Constituencies (Adult Franchise) Act, 1951.

(After a pause.)

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, in view of your ruling in the last case, may I have your permission to amend my motion to a little extent ?

**Mr. President :** Yes, in what form ?

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, I beg to move in the amended form :

"That the Bill to amend the Delimitation of Constituencies (Adult Franchise) Act, 1951, be taken into consideration on Monday, the 19th November, 1951."

**Mr. President :** Would you like to make a speech ?

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : I have already explained, Sir, while moving my first Bill that I am enlarging the seats for non-Muslims in Sind from 6 to 10 and the total number of seats from 107 to 111. In the Delimitation of Constituencies Act, there is no provision for amendment of the Report, or for a second report by the Delimitation Committee. Now, when these extra seats are being given to Hindus, I propose to obtain the advice of the Delimitation Committee for Sind which was appointed in the first instance .....

**The Honourable Mr. Abdul Hamid** (East Bengal : Muslim) : On a Point of Order, Sir. The Honourable Member has not moved the motion.

**Mr. President :** He has moved it.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : So, Sir ....

**The Honourable Dr. Mahmud Husain** (East Bengal : Muslim) : On a Point of Order. The matter is to be considered on Monday next.

**The Honourable Mr. Fazlur Rahman** (East Bengal : Muslim) : But the motion is before the House today and if the motion is carried then the clauses will be taken up on Monday.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : Actual consideration will come later on. It is the motion for consideration of the Bill. Clauses will be considered on Monday.

Therefore, Sir, as I was submitting we are providing for a procedure so that the Government or the Governor-General before announcing the constituencies, should obtain the advice of the old Delimitation Committee and then announce the delimitation of those general constituencies. It is for that purpose alone. As this Bill is complementary to the last

[The Honourable Pirzada Abdus Sattar Abdur Rahman.]

Bill on that particular point, I have amended my motion and said that it should be taken up for consideration clause by clause on Monday if this motion of mine is passed.

**Mr. President :** Motion moved :

"That the Bill to amend the Delimitation of Constituencies (Adult Franchise) Act, 1951, be taken into consideration on Monday, the 19th November, 1951."

The motion was adopted.

PRESENTATION OF REPORT OF THE COMMITTEE ON CONSTITUTIONAL AND ADMINISTRATIVE REFORMS IN BALUCHISTAN

**The Honourable Dr. Mahmud Husain** (East Bengal : Muslim) : Sir, I beg to present the Report\* of the Committee on Constitutional and Administrative Reforms in Baluchistan.

BUDGET ESTIMATES OF THE CONSTITUENT ASSEMBLY OF PAKISTAN

**The Honourable Dr. Mahmud Husain** (East Bengal : Muslim) : Sir, I beg to move the following :

"Resolved that the Assembly do accord sanction in pursuance of Rule 73(1) of the Constituent Assembly Rules to the Estimated Expenditure of the Assembly for the year 1952-53, as shown in the statement below prepared by the Finance Committee :—

*Statement*

	Rs.
Pay of Officers ...	3,94,000
Pay of Establishment ...	2,30,000
Allowances and Honoraria, etc.	7,83,000
Other Charges ...	1,21,000
Charges in England ...	20,000
 Total ...	15,48,000*

Sir, this is in brief the budget of the Constituent Assembly which if passed by this House will be incorporated in the next year's budget. It is more or less on conventional lines. There are not many departures from the past.

In the case of the pay of officers there is an increase of Rs. 44,000. This is due to the provision of the pay of the Deputy President and the Private Secretary to the Honourable President for full one year instead of four months which was the case in the revised estimates. Then there is provision for the pay of an Urdu Reporter for full year instead of  $7\frac{1}{2}$  months which was the case in the revised estimates. There is also provision for the pay of the Watch and Ward officer for six months as against four months in the revised estimates. There is also provision of pay at full rates of officers subjected to 30% pay order, instead of reduced pay drawn by them during the first six months of the year. Apart from that there are the usual annual increments. This explains additional expenditure of Rs. 44,000 for the year as compared with the revised estimates of 1951-52.

\*Please see pages 21 to 47 *infra*. It has been printed as Appendix at end.

In the case of the pay of establishment there is a slight increase of Rs. 14,000. This is due to the provision for full year for certain vacant posts instead of four months and the annual increments earned by the staff during the next year.

Then there is increase in the allowances and honoraria which comes to Rs. 83,000. Here provision has been made for travelling and daily allowances of Members on the basis of six months' session in the course of the next year. There is also increased provision for travelling allowances and there is provision of cost of living allowance and dearness allowances for full year for vacant posts as against four months in the revised estimates. This explains the additional Rs. 83,000 under the head "Allowances and Honoraria."

As regards Other Charges, there is a decrease of Rs. 11,000 which is due to the fact that there will be less expenditure on sundries and furniture, medical charges of officers, staff, etc.

In the total there would be an increase of Rs. 1,30,000 and the charges in England remain as they were, *viz.*, Rs. 20,000.

This is in brief, Sir, the budget for the next year and I hope the House will pass it. I am moving it on behalf of the Finance Committee of the House.

**Mr. President :** Motion moved :

"Resolved that the Assembly do accord sanction in pursuance of Rule 73(1) of the Constituent Assembly Rules to the Estimated Expenditure of the Assembly for the year 1952-53, as shown in the statement below prepared by the Finance Committee :—

*Statement*

	Rs.
Pay of Officers...	3,94,000
Pay of Establishment ...	2,30,000
Allowances and Honoraria, etc.	7,83,000
Other Charges ...	1,21,000
Charges in England ...	20,000
<b>Total</b>	<b>15,48,000</b>

**Mian Muhammad Iftikharuddin** (Punjab : Muslim) : Sir, I seek your permission to oppose this motion on the ground that during the last four years we have not done much more than passing of the Objectives Resolution. If we continue to behave in this manner in future this 15 lakhs' expenditure will be a waste and the time that we might spend in sitting in this House will also be a waste. I think, Sir, that we have lowered the prestige of Pakistan by sitting over the constitution for four and a quarter years. When we brought this State into being we used to claim that we were about to give a new type of democratic, progressive, revolutionary constitution to the world. The world was looking anxiously towards us thinking that we were going to base our constitution on novel or new principles. Four and a quarter years have passed. We aroused curiosity not only of our own people but of the entire democratic world and what have we produced ? Just the Objectives Resolution ! I think, Sir, we will be lowering further the prestige of this House if we go on for another year in the same manner and we will be wasting the public money of Rs. 15 lakhs again if we behave in the same manner. There is no party in this House but it is clear that there is group in this House who commands a majority of this House and who also controls the deliberations and the decisions of this House. It is for them to make

[Mian Muhammad Iftikharuddin.]

up their minds whether they are going to continue as they have done before or whether they are going now to sit down seriously during the next few weeks or may be during the next few months to draft a constitution so that we may not only be to satisfy our own people but may also be able to retrieve our lost prestige in the eyes of the democratic world.

**The Honourable Dr. Mahmud Husain :** Sir, as I explained before, this budget I have presented to the House on behalf of the Finance Committee of the House and not as a Member of the Government. In fact Mian Sahib who just spoke has also recognised the fact that there is no such thing as Government in this House. He has criticised the House itself in which, of course, he is included. He says that this House has been sitting over the constitution and he has exhorted the House to expedite the making of the constitution. Here of course there is no such thing as the Government but still I could assure this House through you, Sir, that so far as the Government is concerned they have made every effort and they would continue to make every effort to finalise the constitution as early as possible.

In fact, when it is said that too long a time has been taken over the constitution, very often it is forgotten that we are also confronted with a very difficult task. We are attempting to evolve a new kind of constitution. We have no definite models before us and a task like this is bound to take time. However, I need not go into the details of this because it is a criticism of the House as a whole. I do not know what efforts Mian Sahib himself has made in the direction of expediting the making of the constitution ? How many resolutions has he brought in this connection ? He is a member of all the Committees. What has he done to expedite the working of these Committees ?

**Mian Muhammad Iftikharuddin :** I cannot call these meetings, but I do attend them whenever they are called.

**The Honourable Mr. Fazlur Rahman** (East Bengal : Muslim) : He only calls for the adjournment of the meetings of the Assembly !

**The Honourable Dr. Mahmud Husain :** It is all very nice for purposes of publicity. This kind of speech may have its value, but surely it does not befit a responsible Member of this House, who is himself associated with the work of the making of the constitution as actively or as passively as anybody else, to criticise this in this House. I request the House once more to accept the proposal and to pass the Budget.

**Mr. President :** The question is :

"Resolved that the Assembly do accord sanction in pursuance of Rule 73(1) of the Constituent Assembly Rules to the Estimated Expenditure of the Assembly for the year 1952-53, as shown in the statement below prepared by the Finance Committee :—

*Statement*

				Rs.
Pay of Officers	...	...	...	3,94,000
Pay of Establishment	...	...	...	2,30,000
Allowances and Honoraria, etc.	...	...	...	7,83,000
Other Charges	...	...	...	1,21,000
Charges in England	...	...	...	20,000
		Total	...	15,48,000/-

The motion was adopted.

The Assembly then adjourned till Three of the Clock, in the afternoon, on Monday, the 19th November, 1951.

## APPENDIX\*.

**Report of the Committee on Constitutional and Administrative Reforms in Baluchistan**

To

THE PRESIDENT,

CONSTITUENT ASSEMBLY OF PAKISTAN.

SIR,

We have the honour to submit the report of the Committee on Constitutional and Administrative Reforms in Baluchistan. The Committee was constituted in pursuance of the following motion moved by the Honourable Mr. Liaquat Ali Khan in the Constituent Assembly and adopted on October 14, 1950 :—

“With a view to bringing the administration of the Province of Baluchistan, as far as possible, to the level of other Provinces of Pakistan, it is resolved that a Committee be appointed to review the entire field of administration of Baluchistan and prepare a report—

- (a) recommending administrative and constitutional changes in the existing administrative and constitutional set up of that province with due regard to the political, social and economic conditions prevailing there; and
- (b) stating the financial, political and administrative implications of the reforms recommended.

Resolved further that the following shall be the members of the Committee :—

1. Dr. Mahmud Husain (Chairman),
2. Mr. M. A. Khuhro,
3. Malik Khuda Bakhsh,
4. Mr. Nur Ahmed,
5. Mr. Bhabesh Chandra Nandy,

and that the number of members whose presence shall be necessary to constitute a meeting of the Committee, shall be three.”

The Committee commenced its work at Quetta on November 2, 1950. It undertook a seven days' tour of Chaman, Hindu Bagh, Fort Sandeman, Loralai, Nushki, Sibi, Chagai, Rohjan and Jhatpat, for the purpose of making a preliminary survey and to ascertain the conditions prevailing in the different areas comprising the Province.

The Committee again met at Karachi on November 23 and 24, 1950. It prepared a questionnaire for eliciting information and ascertaining public opinion on problems connected with the reforms. The questionnaire was circulated to all the important individuals and organizations in the Province. It was also sent to the various departments of the Baluchistan Administration. In all 72 replies were received. In addition to the above questionnaire, the Committee prepared another set of questions for obtaining information from official sources.

The sad demise of Malik Khuda Bakhsh soon after the Karachi meeting, deprived the Committee of one of its most experienced members. The gap thus caused was filled by Mr. Sultan Mohammad Khan, who was nominated under Rule 70 of the Constituent Assembly Rules in place of the deceased.

The Committee held further meetings at Quetta from May 9 to 17, at Ziarat from May 19 to 24, 1951, and finally at Karachi on October 1, 5, 8 and 11, 1951. In accordance with the wishes of many public

\*See page 18 supra.

organizations the Committee held a number of its meetings in open session at Quetta where the public and the Press were present.

The Report consists of two parts : Part I contains a survey of the political, economic and social conditions prevailing in the province ; and Part II embodies the recommendations of the Committee. The financial implications of the changes proposed are embodied in the note prepared by the Financial Adviser to the Committee, Mr. M. A. Mozaffar which appears as an appendix † to the Report. The Committee finds itself in full agreement with the conclusions arrived at therein.

In the end the Committee wishes to place on record its appreciation of the assistance rendered by Mr. M. B. Ahmad, Secretary, Constituent Assembly who acted as Secretary to the Committee, and other officers and members of the staff of the Constituent Assembly connected with its work.

We have the honour to be,

KARACHI :

*The 11th October, 1951.*

SIR,

Your most obedient servants,  
MAHMUD HUSAIN.

NUR AHMED.

S. M. KHAN.

B. C. NANDY.

M. A. KHUHRO.

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†Vide pages 41—47 *infra*.

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**PART I****INTRODUCTION**

Baluchistan is a vast country extending from the borders of Iran and Afghanistan to those of the Punjab, Sind and North-West Frontier Province. Sparsity of population with few large towns, rugged and mountainous nature of the terrain and meagre rainfall are the chief features of the province. The nomadic character of a large portion of the population and the annual visits of migratory tribes from Afghanistan have created peculiar administrative problems.

The Committee has made a survey of political, economic and social conditions prevailing in the province excluding the States. The survey contained in Part I of this report deals with the problems under four heads :

- I. Preliminary and Statistical survey,
- II. Constitutional and Administrative set up,
- III. Educational and Social conditions, and
- IV. Economic conditions and financial resources.

On this survey are based the recommendations of the Committee regarding the administrative and constitutional changes, contained in Part II of the Report.

**I. PRELIMINARY AND STATISTICAL SURVEY**

(a) *Area*.—Baluchistan (including States) has an area of 1,33,367 square miles. This is a little less than half the total area of West Pakistan. The area of centrally administered Baluchistan is 54,455 square miles. The rest of the area is covered by the States of Kalat, Kharan, Mekran and Las Bela.

(b) *Population*.—The total population of the centrally administered province, according to 1951 census, is 6,22,457, including 19,869 persons claiming nationalities other than Pakistani.

There is only one big town in the province, namely Quetta, with a population of 84,623 (including cantonment). The next two biggest towns are Sibi with a winter population of 11,995 and Chaman with a population of 6,889. All other townships have a smaller population. A large part of the population of Baluchistan is nomadic.

Community-wise population of the province is as follows :—

Muslims		5,94,368
Caste Hindus	...	3,022
Scheduled Caste Hindus	...	1,197
Christians	...	3,921
Parsis and others	...	80
Persons claiming nationality other than Pakistani	...	19,869

(c) *Climate*.—The climate of the province is dry and vigorous. In the northern part it is extremely cold in winter and mild in summer, while in the southern part it is mild in winter and extremely hot in summer.

(d) *Languages*.—Pashtu and Baluchi are the two languages spoken in the province. The predominantly Pashtu-speaking and Baluchi-speaking areas are specified below :—

	Percentage	Figures according to census of 1941
<i>Predominantly Pashtu-speaking</i>		
Quetta-Pishin District	89%	Pashtu-speaking 80,357 Baluchi-speaking 10,326 Non-locals 65,606
Zhob District	100%	Pashtu-speaking 50,994 Non-locals 10,505
Loralai District ...	68 %	Pashtu-speaking 53,628 Baluchi-speaking 24,293 Non-locals 5,764
<i>Predominantly Baluchi-speaking</i>		
Sibi District	78%	Baluchi-speaking ... 1,35,970 Pashtu-speaking ... 20,409 Non-locals ... 8,520
Chagai District	95 %	Baluchi-speaking 26,164 Pashtu-speaking 1,396 Non-locals 1,690
Bolan District	90%	Baluchi-speaking 2,832 Pashtu-speaking 297 Non-locals 2,880

## II. CONSTITUTIONAL AND ADMINISTRATIVE SET UP

(a) *Constitutional position of Baluchistan*.—Baluchistan comprises of four separate political regions, namely :—

- (1) Chief Commissioner's Province, consisting of six tahsils of Pishin, Chaman, Sohrarud, Duki, Sibi, and Sharigh, which is administered by the Governor-General through the Chief Commissioner in pursuance of the provisions of Sections 5, 94 and 95 of the Government of India Act, 1935.
- (2) Leased areas consist of Quetta and Nushki tahsils, Nasirabad Sub-Division and Bolan Pass and Kachhi-Nushki Railway district. These areas are covered by the Leased Areas (Laws) Order of 1950, and are administered by the Governor-General through the Agent to the Governor-General in Baluchistan.
- (3) Tribal Areas consist of Zhob District (Hindubagh, Fort Sandeman and Kilai Saifullah tahsils and Shirani country), Loralai district (Bori, Barkhan, Musakhel tahsils and Sanjawi sub-tashil), Chaghai district (Chaghai tahsil and Sanjarani country), Sibi district (Kohen sub-tahsil) and the Marri-Bugti country. The Governor-General administers these areas through the Agent to the Governor-General in Baluchistan in accordance with the powers vested in him under Notification No. F.9 (17)-F|48, dated 27th June, 1950.
- (4) Baluchistan States, consisting of Kalat, Las Bela, Kharan and Mekran have acceded to Pakistan under Sections 5 and 6 of the Government of India Act, 1935. Except with regard to acceded subjects the executive power in the States vests in the Rulers. The Central Government, however, exercises

some control through appointing wazirs in the States. In Mekran the administration is being carried on through the Assistant Political Agent.

Leased Areas are administered in the same way as Tribal Areas or the Chief Commissioner's Province. A district may comprise all or any two or one of the three different areas. There is no administrative difference, as such, between these areas. The Governor-General exercises legislative authority over the Pakistan-administered part of the province and administers it either through the Chief Commissioner or the A. G. G. as the case may be.

(b) *Local Self-Government*.—Local Self-Government, as such, is hardly known to the province. It has only one municipality, namely, the Quetta Municipality (with almost half of its membership nominated) and 7 Bazar Funds which have no representative element in them and are wholly administered by the district authorities.

(i) *Quetta Municipality*.—The Quetta Municipal Committee came into existence in the year 1896 and consisted of nominated members only. In the year 1946 the Quetta Municipal Law of 1896 was superseded by the Quetta Municipal Law of 1946, according to which elections were held on the basis of a joint electorate, and 10 members were returned from 10 wards of the town and 9 members were nominated. The Political Agent, Quetta-Pishin, has been an ex-officio Chairman of the Committee since its inception. The Baluchistan administration have submitted a scheme for the establishment of local bodies in the province including a recommendation for the reconstitution of the Quetta Municipality as a wholly elected body. As is the case in other municipalities the subjects dealt with by the Quetta Municipality are the construction, maintenance, etc., of public streets, footpaths, latrines and watercourses ; watering and lighting of streets ; grant-in-aid to schools, hospitals, dispensaries, etc.

(ii) *Bazar Funds*.—There are 7 Bazar Funds in Baluchistan :—

		Income	Expenditure
1. Loralai Bazar Fund	For Loralai, Musakhel, Mukhter, Duki, Smallen, Barkhan towns.	1,08,390	1,08,301
2. Fort Sandeman Bazar Fund ...	For Fort Sandeman, Hindubagh and Kilai Saifullah towns.	86,230	88,185
3. Bolan Bazar Fund ...	For Mach and Kolpur towns ...	15,493	12,074
4. Nushki Bazar Fund	For Nushki, Dalbandin and Nokkundi towns.	64,368	94,075
5. Pishin, Saddar and District Bazar Fund.	For Pishin, Chaman, Yaru, Boston, Saranan, Gulistan and Kilai Abdullah.	2,51,954	3,04,871
6. Nasirabad Bazar Fund	From Ustamohd town	19,280	16,420
7. Sibi Bazar Fund	For Sibi, Ziarat and Harnai towns	1,19,559	1,20,672

The Funds are regulated under the Baluchistan Bazar Regulation and are entirely at the disposal of the Revenue Commissioner, who exercises full powers over them.

(c) *Baluchistan Council*.—The Council was inaugurated on 11th June, 1949. Originally, it consisted of one Chairman, 2 Advisers to the Agent to the Governor-General and 12 Members. The Council was

reconstituted on 31st August, 1950. It was dissolved on the expiry of its normal term of one year on the 1st September, 1951. The Council had its own rules. Its members moved cut motions to the financial proposals of the government, asked questions, passed resolutions and criticised the policies of the government. The activities of the Council, looked upon as a first experiment, have not been negligible. The Council was not, however, a complete success for many reasons. In the first instance, the Council did not possess the powers of a legislative assembly. The powers, and consequently the responsibility, rested with the Agent to the Governor-General. The Advisers had limited functions. They acted more or less in an advisory capacity and they possessed no real powers. The people whom we met generally held the view that the main reason for the failure of the Council was the absence of real power.

The total expenditure incurred on the Council during its first year was about Rs. 24,000.

The staff of the Council Secretariat consisted of one secretary, one stenographer, one junior assistant and two peons. The approximate annual expenditure of this establishment was Rs. 12,000.

(d) *Tribal responsibility.*—The directly administered Baluchistan is for purposes of administration divided into 'A' and 'B' Areas. 'A' Areas comprise :—

1. All Railway Line Stations.
2. All Municipal and Cantonment Areas.
3. All large towns, Bazar and Administrative Headquarters.

All other areas are 'B' Areas.

There is a regular system of law, similar to that applicable in other provinces, in force in 'A' Areas. 'B' Areas are, however, administered through a system of tribal responsibility commonly known as Sardari System.

This system envisages :

- (1) dealings with the tribe through the Sardars ;
- (2) responsibility of the tribe for the maintenance of law and order in its area ;
- (3) employment of levies who are paid by Government and whose functions include summoning of parties, investigation of offences, etc.

The Sardars are usually appointed after consulting the tribe or a section thereof as the case may be, though in the vast majority of cases the hereditary principle prevails. The law applicable in 'B' Areas is the Frontier Crimes Regulations. Justice is administered through the Jirgas according to a system discussed in paragraph II (e).

The Sardari system is a legacy of the past. The system was introduced by Sir Robert Sandeman who first brought Baluchistan under a loose form of administrative and political control on terms of subordinate co-operation. The Sardars render individual and collective service to the State through their influence over their respective tribes. They are assisted in their duties by the government-paid levies, who belong to the tribe under their control.

(e) *The Jirga System.*—This is a system of administering justice through tribunals composed of leading residents without the aid of lawyers or trained judges. Jirgas are of various kinds. The ordinary

Jirga is a body of a few nominated headmen which investigates crimes as well as civil disputes. The method usually followed in the case of ordinary crimes is for the levy to make inquiries and send the case to the magistrate who frames simple issues and refers them to the Jirga. The Jirga, after hearing parties and witnesses and debating the matter, records its findings of fact including findings on specific issues and recommends the punishment to be inflicted. The magistrate then confirms or modifies the punishment. He does not as a rule alter the findings of fact.

A magistrate of the first class, gazetted as an additional district magistrate under the Frontier Crimes Regulation, can deal with Jirga cases. Thus in Baluchistan, besides the Political Agents who are ex-officio Deputy Commissioners under the F.C.R., all Assistant Political Agents and Sub-Divisional Extra Assistant Commissioners are specifically gazetted as Additional District Magistrates. In doing so special care is taken that powers of inexperienced magistrates are properly curtailed.

In addition to the ordinary local Jirga there are other varieties :—

- (1) The District Jirgas deal with cases between different units of a district but the members are drawn from the local Jirga lists.
- (2) The Joint (inter-district) Jirgas deal with cases between different districts, the members being nominated from the local Jirga lists of the districts concerned.
- (3) The Inter-Provincial Jirgas deal with cases between Baluchistan, the Punjab, Sind, and N.-W.F. Province.
- (4) The Special Jirgas deal with specially important cases, members of which are drawn from different districts.
- (5) The Shahi Jirga meets once a year in the winter months at Sibi and deals with important cases specifically referred to it in addition to those involving questions of *riwaj* and framing of tribal code.

The law applied under the Jirga system is the customary law, locally known as *riwaj*. Almost all cases concerning the tribal population and also cases between tribesmen in states and tribesmen in the Administered Areas are referred to Jirgas. The tribal law includes practically every criminal offence. The basic object of tribal law is the satisfaction of the aggrieved party ; the punishment of the aggressor being a matter of secondary importance in the eye of the tribesman. His sense of justice demands that the aggrieved party must be recompensed. If compensation is not paid or satisfaction not afforded to him, he would take the law in his own hands and this must lead to further crime.

The *riwaj* has its own peculiar methods of adjustment for actual and sentimental injuries and does not always conform to the penal laws of Pakistan, more especially in cases connected with women. Such cases cause most of the trouble often leading to tribal feuds and bloodshed. In a case concerning a woman, the aggrieved husband would be satisfied if the tribal chief awarded him the customary compensation and would be reconciled to the decision as he can maintain his *izzat* among his brethren, but if the aggressor was punished by a competent court

the sting would still be there and the husband would consider it a point of honour to avenge himself whenever an opportunity offered itself. The same remarks apply to cases of murder.

The Jirga Law. *i.e.*, the F.C.R. makes no provision for appeals but the Agent to the Governor-General may call for the record of any case and revise any order, sentence or decree. He cannot however set aside any finding of fact both in civil and criminal cases unless he is of opinion that there has been grave irregularity in the proceedings or that the proceedings have been so conducted as to occasion a miscarriage of justice.

The advantages of this system are that investigation takes place on the spot through people who are most likely to know the local circumstances. As a result admissions by the defendant are very frequent. The procedure is cheap, and simple and affords satisfaction to the people not accustomed to the complexities of the modern system of justice.

The system of tribal responsibility (namely, the Sardari and levy system) and the Jirga System are interwoven and inter-dependent.

(f) *Shariat Law*.—During the course of recording evidence in Baluchistan the Committee learnt that there was a desire on the part of the Ulema and some other people of the Province that local *riwaj* should be substituted by Shariat.

(g) *Judiciary*.—The Court of the Judicial Commissioner in Baluchistan is the highest court of appeal in the province under the regular law and exercises all the powers of a High Court under the Criminal as well as the Civil Procedure Code. This Court, however, is not included in the list of High Courts enumerated in section 219 of the Government of India Act, 1935, for purposes of issue of certificates under section 205 of the same Act.

Besides hearing appeals and revision petitions in both civil and criminal cases, the Court exercises a general superintendence over the work of all subordinate courts.

There are the following classes of civil and criminal courts within the jurisdiction of the District and Sessions Judge in Baluchistan :—

- (1) District and Sessions Judge in Baluchistan.
- (2) Senior Subordinate Judge in Baluchistan.
- (3) Subordinate Judges.

#### *District and Sessions Judge in Baluchistan.*

There is only one District and Sessions Judge in the whole of Baluchistan who has unlimited powers to try civil cases and possesses appellate jurisdiction over the civil and criminal courts in the whole of the province. The court of the District and Sessions Judge is the principal civil court of original jurisdiction. An appeal from a decree or an order of a Subordinate Judge lies to the District Judge. As Sessions Judge he has power to decide all cases committed to him by the lower courts. He has also appellate and revisional powers as specified in the Criminal Procedure Code.

#### *Senior Subordinate Judge in Baluchistan.*

He has jurisdiction in original civil suits in the whole of the province up to Rs. 10,000 and is also a Small Causes Judge for Quetta and Nushki districts with jurisdiction to try cases up to Rs. 500 and he is also a Cantonment Magistrate in Quetta.

### *Subordinate Judges.*

There are three Subordinate Judges in the province. One Subordinate Judge is for Quetta and Nushki districts, one for Sibi district and one for Loralai and Zhob districts. All these Subordinate Judges have jurisdiction to try cases up to the value of Rs. 1,000. In addition to that they are also Magistrates in their respective jurisdiction. They are also Small Causes Judges having jurisdiction up to Rs. 100.

The powers of all these courts are confined to the urban areas of the districts which are called "A" areas and sometimes even the civil and criminal cases of "A" areas are disposed of under F.C.R. by the order of the Deputy Commissioner who has full powers under the Frontier Crimes Regulation to withdraw any civil or criminal case pending before a regular court.

(h) *Secretariat and Baluchistan Administration.*—The present set-up of the Baluchistan Administration at headquarters is as follows:—  
*The Head of the Administration.*

The Head of the Administration is the Chief Commissioner, who is also the Agent to the Governor-General in matters relating to the States in Baluchistan, the Leased Areas and the Tribal Areas.

### *Personal staff of the A. G. G.*

The Chief Commissioner and the A. G. G. has one gazetted officer of the Provincial Civil Service on his personal staff who is designated as Personal Assistant. He acts as Registrar when the A. G. G. performs the duties of the Commissioner under the Frontier Crimes Regulation. In addition he is incharge of darbars, interviews, ceremonial and social functions.

### *Advisers.*

Since the establishment of the Advisory Council there were two Advisers. The allocation of subjects, when the Committee visited Baluchistan was as follows:—

1. *Haji Arbab Karam Khan.*
  - (a) Agriculture.
  - (b) Forests.
  - (c) Animal Husbandry.
  - (d) Food and Civil Supplies.
  - (e) Development.
2. *Sardar Mohd. Akbar Bugti.*
  - (a) Education.
  - (b) Rehabilitation and Evacuee Property.
  - (c) Health.
  - (d) Publicity.

The Advisers had no personal staff of gazetted status.

### *Secretariat.*

(a) *Revenue and Judicial Commissioner.*—Next in importance to the A. G. G. is the Revenue and Judicial Commissioner on whom devolve most of the responsibilities relating to the administration of the province. He is in charge of the following subjects, namely:—

- (1) Administration of Justice.
- (2) Revenue.

- (3) Agriculture.
- (4) Animal Husbandry.
- (5) Development.
- (6) Forests.
- (7) Rehabilitation and Refugees.
- (8) Food and Civil Supplies.
- (9) Customs and Excise.
- (10) Co-operative Societies.
- (11) Appointment of ministerial and executive staff.
- (12) Preparation of electoral rolls and conduct of elections.

To assist him in the administration of the subjects mentioned above, he has the following heads of departments subordinate to him :—

1. Custodian-cum-Rehabilitation Commissioner	... Rehabilitation.
2. Assistant Revenue Commissioner (Food)	Food Supplies.
3. Director of Agriculture	... Agriculture.
4. Superintendent of Excise	Customs and Excise.
5. Deputy Conservator of Forests	Forests.
6. Deputy Director of Animal Husbandry	
7. District and Sessions Judge	... Incharge of Administration of Justice.
8. Deputy Registrar of Co-operative Societies	Co-operative Societies.
9. Assistant to the Revenue Commissioner ...	Revenue and appointment of ministerial and executive staff.
10. Election Officer	Electoral Rolls.

(b) *Secretary* who deals with finance, levies, political affairs, foreign relations and secret work.

(c) *Political Secretary* who advises the A. G. G. on matters connected with the States of Baluchistan which have acceded to Pakistan.

(d) *Deputy Secretary* who is the channel for submission of cases by the Advisers—relating to departments under their respective charge.

(e) *Under Secretary* who deals with arms, industries, joint stock companies and Secretariat establishment and also assists the Secretary and the Revenue-Judicial Commissioner in the disposal of certain kinds of cases.

(f) *Financial Assistant* who prepares the Budget and does all other financial work.

(g) *Senior Superintendent of Police* who is responsible to the A. G. G. for all matters relating to police and is ex-officio Secretary to the A. G. G. in the Police and Transportation Department.

(h) *Secretary, P. W. D.*—The Deputy Chief Engineer in M. E. S. who is a military officer, acts as ex-officio Secretary, P. W. D.

Besides the heads of the departments enumerated under (a) above, there are two other heads of departments, namely, the Chief Medical Officer and Inspector-General of Prisons, and the Director of Education.

The Chief Medical Officer and Inspector General of Prisons, is in charge of prisons, public health and sanitation, hospitals and dispensaries, registration of births and deaths, and the Director of Education, as his designation indicates, is in charge of education. These officers submitted their cases to the A. G. G. through the Adviser concerned.

### III. EDUCATIONAL AND SOCIAL CONDITIONS

(i) *Health*.—There are two civil surgeons and 36 government civil hospitals and dispensaries in the province out of which due to shortage of doctors only 15 are being run by the doctors and 21 by trained compounders. In addition to these there are three travelling dispensary vans touring the rural areas of Sibi, Zhob and Loralai districts. The Health services are administered in towns by municipalities and Bazar Funds. There is no Public Health Department in the province. There is, however, an Anti-Malaria Organization under the administrative control of the Chief Medical Officer.

Besides the hospitals and dispensaries run by government there are the following non-government institutions in Quetta which are paid grants-in-aid by the government :—

1. Lady Dufferin Hospital.
2. Miss Fatima Jinnah T. B. Sanatorium.
3. Church Mission Society Hospital.

(ii) *Education*.—The total number of the literate population in the province being 53,483, the percentage of literacy in the province is approximately 8 which is lower than in any other province of the country. The total number of schools of all descriptions in the province is 210 including a college, the details being as follows :—

1. Training School (Men)	1
2. Training School (Women) ...	1
3. Degree College ...	1
4. High Schools for Boys	7
5. Middle Schools for Boys	9
6. High School for Girls	1
7. Middle Schools for Girls ... ...	4
8. Primary Schools (both for Boys and Girls)	186
Total ...	210

The total number of pupils in the province is 16,585, of which 2,718 are females.

The annual expenditure on education is Rs. 12,50,000. A number of schemes for the advancement of education and promotion of literacy in the province are said to be under the consideration of the Government.

(iii) *Refugees and Rehabilitation*.—The total population of refugees in the province is approximately 29,000 of which about 3/4th are concentrated in Quetta and the remaining in other towns. The refugees originally organized themselves into Anjuman-e-Muawin-e-Muhajereen, Quetta. This organization had also a Refugee Welfare Committee. The Presidents of both the Anjuman and the Committee are members of the Rehabilitation Advisory Committee. The Anjuman was later on

merged into the Muslim League Refugees Advisory Board, Quetta. An *ad hoc* Advisory Committee comprising all interests and shades of opinion was set up in July, 1948, to advise the Rehabilitation Advisory Committee in connection with the rehabilitation of refugees in Quetta. This Committee has been advising the Rehabilitation Commissioner in the matter of rehabilitation and allotment. The representative of the refugees, who gave evidence before us, complained of unfair treatment of the refugees in the matter of education and rehabilitation. He also pointed out that, under the rules at present obtaining in the province, it is extremely difficult to obtain domicile because residence for a long period of 30 years is a condition precedent to acquiring domicile in the province. The refugees have come mostly from East Punjab, Delhi, and the United Provinces. It seems that complete absorption of the refugees in the local population would take a number of years. The differences between the local and the refugee population have been accentuated by the fact that evacuee property—mainly houses and business premises in Quetta—had, in most cases, been taken possession of by the locals before the arrival of the refugees in the province. The rehabilitation of the refugees is, therefore, considerably impeded due to the unwillingness of the locals to vacate the houses and business premises. In the matter of houses the Rehabilitation Department is following the policy of surveying the entire area and evicting the non-refugee occupants after examining the details of each case. But there are certain practical difficulties in following the same procedure with regard to business premises.

#### IV. ECONOMIC CONDITIONS AND FINANCIAL RESOURCES

(a) *Economic Conditions*.—(i) *Agriculture* : The area under cultivation during 1949 was 9,55,401 acres. This shows a remarkable increase in such area since partition, the figures for the year 1947 and 1948 being 5,16,101 acres and 5,63,999 acres respectively. There are at present 35 irrigation schemes, estimated to cost Rs. 365 lakhs, at various stages of consideration. The strength of the Agriculture Department has been enhanced during the current year. Its budget for the year 1950-51 amounts to Rs. 9,70,500. Its efforts are directed towards improvement of agriculture in its various aspects. Its present activities include distribution of improved quality seed and graded fruit trees; popularizing modern agricultural technique and useful practices and operations; carrying out field experiments on crops; helping trade by fruit preservation; plant protection; and helping the agriculturist and fruit growers in marketing their products.

Six fruit preservation factories are working and producing 5,00,000 units of products annually under the guidance of the Agriculture Department. Land is reclaimed to the extent of 2,500 to 3,500 acres annually by bunding, levelling and terracing.

Baluchistan affords abundant scope for development. The directly administered Baluchistan has an area larger than that of East Bengal and has about 1/67th of its population. The area of Baluchistan is 54,456 sq. miles while that of East Bengal is 54,100 sq. miles. The population of the former is 6,22,000 whereas the population of the latter is 4,18,00,000.

The bottle-neck in the development of agriculture is the water supply. Water is the most valuable commodity in Baluchistan. There is plenty of cultivable land which is lying idle due to shortage of water. There are two ways in which water can be obtained, namely (1) by

catching\* and utilizing the water which flows off and, (2) by the development of the underground sources. About 20 per cent. of the rain water flows into the sea as it is not collected and utilized by any irrigation scheme. A small part of the 20 per cent. which runs off is, however, collected, at present, by means of dams, surface weirs and other methods. About 40 per cent. of the rain water is lost by evaporation and 40 per cent. disappears underground. Of the 40 per cent. which disappears underground only a small part is reclaimed as there are only a few artesian wells in the province. Trial borings are, however, being carried on to discover underground water supply. As for harnessing rain water, several schemes are under consideration of the Government, the most important of which are, (1) the Bolan River scheme costing about Rs. 25 lakhs, and (2) the scheme for collecting flood water at an estimated cost of about Rs. 180 lakhs. There are a number of smaller schemes as well.

(ii) *Food Supply* : The province has a slight deficit in wheat, except in abnormal years of bumper crops. The deficit is made up by imports from the neighbouring areas. The province has also a deficit in gram. It has a surplus in paddy, Jawari and potatoes. The minor food grains, namely, maize, barley and bajra are not produced in any appreciable quantity.

(iii) *Forests* : Forests, like many other aspects of the economic life of the province, are in need of development. After the establishment of Pakistan a minor forest circle was created in the province for the purpose of planning and executing measures conducive to the development of forestry. The development of agriculture as well as wool industry in the province is mainly dependent on the development of forestry. Progress in forestry cannot, however, be rapid. It is a long range enterprise and its progress depends on a consistent policy sustained over centuries rather than decades.

The present area of State forests notified so far is 1,896 square miles that is approximately 3 per cent. of the total area of directly administered Baluchistan, whereas it must be 20 to 25 per cent. of the total land area of the country as advocated by forestry experts. Even out of this small area 1,437 sq. miles are either grass-lands or 'hing' areas or catchments declared State forests for the purposes of water conservation and contain no trees at all. Of the remaining area of the State forests, 20 sq. miles in the hot plains of new Sibi are scrub jungle, 62 sq. miles are broad-leaved tree forests of olive or acacia which are scattered over a large part of the central plateau and 167 sq. miles are juniper. Thus it will be seen that only a small part of the area of the State forests, approximately 210 sq. miles, actually bears trees and that, too, is very thinly wooded. In addition to the State forests there are vast areas of approximately 4,600 square miles of forest mostly in the northern and eastern parts of the province possessed by the tribes. These are more abundantly wooded than the State forests. But the Forest Department has so far not been able to declare them as reserves and they are rapidly disappearing due to destructive lopping and overgrazing.

The most paying forest product is ephedra which is used in the preparation of medicine for asthma and other related ailments. Baluchistan is at present the sole supplier of this drug to the world. It is, however, meeting competition with synthetic ephedrine.

(iv) *Mineral Wealth.—Coal* : The production of coal in the province was as follows : 1949—77,476 tons ; 1950—2,34,641 tons and 1951 (up

to March)—89,000 tons. According to expert opinion the quantity could be raised to half a million tons annually. The quality of coal is poor. It can be used by cement works and brick kilns but it is not fit for use as steam coal. The coal available at the depth of 1,000 feet is of better quality. Owing to the bad quality of the coal, extraction of by-products is also not possible. Export of coal to other provinces is handicapped by absence of railways. The Government mines in Shahrigarh are in the process of being developed in accordance with the projected scheme of Powel Dufferin. Mechanization of other mines is also being encouraged. The royalty charged on coal is  $2\frac{1}{2}$  per cent. which comes to 6 annas per ton. According to evidence received by us the profit made by the miners is very considerable and there is scope for substantial increase in the royalty. In the course of our enquiry suggestions were made that Government should enter the mining enterprise with 51 per cent. of share capital, which would bring in large profits to the State.

*Asbestos Chrysolite* : Chrysolite is the most valuable form of asbestos. Considerable quantities have been recently discovered north of Fort Sandeman. They are being prospected to see if the amount available would justify the erection of a plant.

*Salt* : Salt has long been known to be present in the Hamun-i-Mushkel in West Baluchistan, but no effort has been made to work it on a worthwhile scale. It has now been established that there are at least  $1\frac{1}{2}$  million tons of high grade salt about 45 miles from the railway line. There are also brines and less pure salts in almost unlimited quantities. A chemical investigation of this and other salt deposits closer to the railway is, we understand, going to be made soon.

*Manganese*.—Manganese has been located east of Las Bela. As yet little is known of the quantity and quality of the ore. But chances are that it might turn out to be a workable deposit.

*Oil* : There is likelihood of discovering oil in the Marri-Bugti area.

*Geological Survey* : Progress in the geological survey of the province was seriously handicapped by the fact that after partition Geological Survey of Pakistan had to begin from nothing. All they had was 2 microscopes, one of them obsolete, a few books and some small collections of rocks and fossils. Absence of roads and facilities of transport constituted another serious obstacle. Recently progress has been made towards the establishment of a museum, a library and a laboratory and the staff are now tackling problem with a good deal of enthusiasm.

*Powindahs* : The term "Powindah" is the name of the immigrants numbering about 75,000 who come to Baluchistan in the cold weather from beyond its northern border. They find their way through different passes and scatter through the length and breadth of the province. In summer they return to cooler highlands. They bring with them sheep, goats, camels, ponies and donkeys in large numbers. They pay grazing tax on all the sheep, camels and donkeys and octroi on all goods which they carry to any of the bazaars. They buy cloth, foodstuffs, sugar and tea. Their arms are surrendered at the time of crossing into Pakistan. As soon as they enter the province they become subject to the law of the province and the government undertakes responsibility for their safety. They have a wholesome effect on the economic life of the province. Afforestation of the province is, however, adversely affected on account of the large number of goats, sheep and camels which the powindahs bring with them.

(b) *Finance*.—The total estimated provincial receipts of Baluchistan Administration for the year 1951-52 are Rs. 49.78 lakhs and the total

expenditure Rs. 1,23,86,000. The net deficit is, therefore, estimated at Rs. 74 lakhs. Extra expenditure on account of reforms is estimated at Rs. 6 lakhs. An additional sum of Rs. 6 lakhs will be required to meet expenditure on account of Pay Commission's recommendations. Another sum of Rs. 38 lakhs which is at present debitible to Frontier Regions and represents expenditure on Baluchistan levy will have to be transferred in future to the provincial budget as a result of the proposal to include the 'B' areas in the reforms. The total estimated deficit in the provincial budget will thus come to Rs. 124 lakhs. The details are given in Mr. Mozaffar's Note on the financial position appended to this report.

(c) *Frontiers*.—The Province has about a thousand miles of land frontier and about 400 miles of sea frontier. To protect these frontiers a system of watch and ward was evolved on the basis of levy posts backed by tribal lashkars and supported by civil armed forces known as the Zhob Militia, Pishin Scouts, the Chagai and Mekran Levy Corps with regular forces stationed in reserve at places like Quetta, Fort Sandeman and Loralai.

(d) *Railway*.—Three railway lines serve Baluchistan, one goes right up to Chaman *via* Bolan and Khojak Pass, another to Zahidan in Iran *via* Naukkundi, and the third which is a small gauge railway line, runs as far as Fort Sandeman.

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## PART II

### RECOMMENDATIONS

*Introductory* s The problem of constitutional reforms in Baluchistan has a long history. Long before the Partition, among the demands of the Muslims of the sub-continent reforms in Baluchistan figured prominently. The Quaid-i-Azam and the Muslim League championed the cause of reforms in Baluchistan. Naturally, therefore, since the establishment of Pakistan the people of Baluchistan have been expecting the introduction of reforms and it has been the endeavour of the Government of Pakistan to take steps to bring this Province in line with other Provinces. That there are difficulties in achieving this object no one would deny. The foremost difficulty is financial.

With an area of about 54,456 square miles, Baluchistan has a population only of 6,22,457 (including 19,869 persons claiming nationalities other than Pakistani), *i.e.*, about half the population of the city of Karachi much too small for a Province. It yields a revenue of about 49.78 lakhs as against the total expenditure of 1,24,00,000 at present. The balance of over two crores constituting more than 5/6th of the total is met out of the Central revenues. During the last four years certain steps were taken by the Pakistan Government to improve the economic condition of the Province. The Central Government undertook several short term projects to stimulate its agricultural and mineral yields. Not that these steps are sufficient to meet the huge deficit which must become bigger still if the province is to have all the paraphernalia of representative institutions, but the progress made thus far is sufficiently encouraging. Given imagination and perseverance, the Province should be able to meet its growing needs in the foreseeable future. Popular institutions may mean more expenditure but popular representatives may also be able to tap new sources of revenue.

The second difficulty is caused by lack of education and prevalence of illiteracy. Representative institutions presuppose a certain educational standard for the people as a whole. Illiteracy figures are higher in Baluchistan as compared with other provinces. But in this respect conditions are unsatisfactory in Pakistan as a whole and we feel that there is no justification for not establishing representative institutions in Baluchistan because the percentage of literacy is lower than elsewhere in Pakistan. With the introduction of adult franchise as the basic suffrage throughout the whole of Pakistan the Central Government have reposed confidence in their people to understand their responsibility in the matter of their own Government. We do not hesitate to extend this confidence to the people of Baluchistan so that they may be able to choose the right type of people for the legislature. Political education may be at present deficient in this Province but in the wake of elections and campaigning by political parties and individual candidates a good deal of leeway will be made up and that in itself will be a great opportunity to help the people of Baluchistan to understand their own problems.

Yet another difficulty arises from the fact that the people of Baluchistan have had no experience of representative institutions and to establish such institutions with far-reaching powers has its own risks. During the bygone days not even the local self-Government institutions were ever introduced in this Province except for providing a few elected members to the Quetta Municipality. Addressing a gathering at Quetta on June 19, 1948, the Quaid-i-Azam observed, "Now you must have realized that Baluchistan has been a most neglected part of this sub-continent all these years. In some respects it is criminal negligence on the part of those who were responsible for the welfare of Baluchistan ..... Your administration has been stagnant for nearly a century." The only representative institution known to Baluchistan was the Baluchistan Council which came into existence after the birth of Pakistan. The experiment of the Baluchistan Council cannot be termed a success. But its shortcomings were due largely to the fact that it was a nominated body, that it had no real powers and functions other than advisory and its members were continuously obsessed by a grievance that they had no effective share in the Government of the province. The position of a popularly elected legislature would be entirely different. Such a legislature with adequate powers could function with the realization that their judgments and decisions will directly affect the population, alter the conditions of the province and influence its future.

Lack of experience of working a complicated system of representative Government compatible with the needs of modern time has to be admitted but that in itself should not be a good ground to deny the benefits of Provincial Autonomy to Baluchistan. Besides this inexperience is due to no fault of the people. Whatever might be true of the past we were happily impressed by the most widely spread political consciousness throughout the Province. This was manifested by a vigorous demand for Provincial Autonomy. Experience or no experience, freedom of the country casts a heavy responsibility for governance and the sons of the soil must be prepared to shoulder it. We are, therefore, inclined to repose complete confidence in the people of Baluchistan in making these recommendations. They have a glorious past; their traditions are sufficient to stimulate a great hope in the future of their destiny and with that hope we approach this task. In recommending far-reaching reforms, we are confident that the people of Baluchistan

will work these reforms creditably and successfully. Lack of training in the working of representative institutions, however, dictated some caution and we have reluctantly provided certain safeguards.

Our aim has been to bring Baluchistan to the level of other provinces. We are recommending the widest franchise for the people and widest powers for their representatives.

But as a precautionary measure and for the transition period only we have provided for meeting probable difficulties conferring special powers on the Governor of the Province. That the exercise of these powers may not at all be necessary is our earnest hope. If, as we confidently hope, this experiment in political advance succeeds we have no doubt that at the time of framing the new Constitution the position would be re-examined and the restrictions proposed by us done away with. This would be a matter for the future to decide and nobody will be happier than ourselves if future events prove our apprehensions unnecessary. Even as it is the discretionary powers of the Governor are being placed under the general control of the Governor General which in effect means the control of the Central Parliament.

Our recommendations may be divided under five heads :—

I. Provincial Autonomy.

II. Constitution and composition of the Legislature, Franchise, Elections, etc.

III. Local Self-Government.

IV. Judiciary.

V. Sardari System.

In making recommendations we have excluded the States from our purview as they do not come within the administrative structure of the Province of Baluchistan.

### I. PROVINCIAL AUTONOMY

Baluchistan should be raised to the status of a Governor's province and the Government of India Act, 1935 (as adapted to Pakistan) should be applied to it with only such modifications as are absolutely essential in view of the peculiar conditions prevailing in the province. These modifications have been specified below :—

(a) *Special responsibilities of the Governor.*

- (1) In the exercise of his functions the Governor should have the following special responsibilities :
  - (i) the administration of police, levies and civil armed forces, including expenditure to be incurred thereon ;
  - (ii) the prevention of any grave menace to the peace and tranquility of the Province or any part thereof ;
  - (iii) the protection of the right of any Pakistan State and the rights and dignity of the Ruler thereof ; and
  - (iv) the securing of the execution of orders or directions lawfully issued to him under Part VI of the Government of India Act, 1935 (as adapted to Pakistan).
- (2) If, and in so far as, any special responsibility of the Governor is involved, he should in the exercise of his functions, exercise his individual judgement as to the action to be taken.

(b) *Power of the Governor to promulgate Ordinances at any time with respect to certain subjects..*

- (1) If at any time the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is required to act in his discretion or to exercise his individual judgement, he may promulgate such ordinances as in his opinion the circumstances of the case require.
- (2) Such an ordinance should continue in operation for such period not exceeding six months as may be specified therein, but may by a subsequent ordinance be extended for a further period not exceeding six months.
- (3) Such an ordinance should have the same force and effect as an Act of the Provincial Legislature assented to by the Governor, but every such ordinance—
  - (i) may be withdrawn at any time by the Governor ; and
  - (ii) if it is an ordinance extending a previous ordinance for a further period, it should be communicated forthwith to the Governor-General, who shall cause it to be laid before the Central Legislature.
- (4) If and so far as such ordinance makes any provision which would not be valid if enacted in an Act of the Provincial Legislature, it should be void :

Provided that for the purposes of the provisions of Government of India Act, 1935, relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature, an ordinance promulgated under this section should be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him.

- (5) The functions of the Governor under this paragraph should be exercised by him in his discretion but he should not exercise any of his powers thereunder except with the concurrence of the Governor-General :

Provided that, if it appears to the Governor that it is impracticable to obtain in time the concurrence of the Governor-General, he may promulgate an ordinance without the concurrence of the Governor-General but in that case the Governor-General may direct the Governor to withdraw the ordinance and the ordinance should be withdrawn accordingly.

(c) *Power of the Governor in certain circumstances to enact Acts.*

- (1) If at any time it appears to the Governor that, for the purpose of enabling him satisfactorily to discharge his functions in so far as he is required to act in his discretion or to exercise his individual judgement, it is essential that provision should be made by legislation, he may by message to the legislature explain the circumstances which in his opinion render legislation essential, and either—
  - (i) enact forthwith as a Governor's Act a Bill containing such provisions as he considers necessary ; or

- (ii) attach to his message a draft of the Bill which he considers necessary.
- (2) Where the Governor takes such action as is mentioned in the preceding sub-para. (b) he may, at any time after the expiration of one month, enact, as Governor's Act, the Bill proposed by him to the Provincial Legislature either in the form of the draft communication to them, or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by the Provincial Legislature with reference to the Bill or to amendments suggested to be made therein.
- (3) A Governor's Act shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor and, if and so far as it makes any provision which would not be valid if enacted in an Act of that Legislature, shall be void :

Provided that, for the purposes of the provisions of the Government of India Act, 1935 (as adapted to Pakistan) relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature, a Governor's Act shall be deemed to be an Act reserved for the consideration of the Governor-General and assented to by him.

- (4) Every Governor's Act shall be communicated forthwith to the Governor-General who should cause it to be laid before the Central Legislature.
- (5) The functions of the Governor under this paragraph should be exercised by him in his discretion, but he should not exercise any of his powers thereunder except with the concurrence of the Governor-General.

*(d) Sanction of the Governor required for certain legislative proposals.*

Unless the Governor of the Province in his discretion thinks fit to give his previous sanction, there shall not be introduced or moved any Bill or amendment which—

- (i) repeals, amends or is repugnant to any Governor's Act or any ordinance promulgated in his discretion by the Governor : or
- (ii) repeals, amends or affects any Act relating to any police force, levies and civil armed forces.
- (e) In so far as the Governor of Baluchistan is required to act in his discretion or to exercise his individual judgement, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by the Governor-General but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this sub-paragraph.

**II. CONSTITUTION AND COMPOSITION OF THE LEGISLATURE, FRANCHISE, ELECTIONS, ETC.**

1. The Legislature should be unicameral.
2. It should have 30 seats.

3. There should be adult franchise (including women).
4. There should be separate electorates for the minorities, one seat should be reserved for Hindus and one for the other minorities.

(One of our colleagues, Mr. B. C. Nandy, was of the opinion that since these proposals are based mainly on the Government of India Act, 1935, he agreed to separate electorates in spite of his conviction that joint electorates would be helpful for the State and the minorities).

5. There should be no reservation for any other special interests like industry, labour, university, landlords, refugees, etc.
6. There should be direct election.
7. The constituencies should be territorial, but in rural areas, so far as possible, the unity of the tribe should be taken into account in fixing boundaries. Actual demarcation of the constituencies should be left to a Delimitation Committee.

### III. LOCAL SELF-GOVERNMENT

The following local bodies should be established in the Province :—

- 1 Municipality at Quetta.
- 1 Notified Area Committee at Ziarat.
- 7 Small Town Committees at Pishin, Chaman, Loralai, Fort Sandeman, Sibi, Usta Mohd. and Nushki.
- 5 District Boards for Quetta-Pishin, Loralai, Zhob, Sibi and Chagai.

There should be separate electorates for the minorities and some weightage should be given to them where possible. Details regarding the composition etc., of these bodies should be worked out by the Provincial Legislature.

### IV. JUDICIARY

We do not recommend any immediate changes in the basic judicial system prevalent in the 'A' and 'B' areas of the province. However, a right of appeal from the orders and judgements of the District and Sessions Judge, Baluchistan, be given to the people. Appeals should be heard by the Sind Chief Court working as far as possible at Quetta in the manner of circuit Judges. Arrangements should be made for the disposal of miscellaneous applications, like bail application etc., and also from the admission and registration of appeals by delegating the powers of the Chief Court of Sind in this behalf to some experienced judicial officer at Quetta. Later on if the volume of work justifies a court of appeal may be established in Baluchistan. (One of our colleagues Mr. S. M. Khan is of the view that the establishment of a Judicial Commissioner's Court should be contemporaneous with the advent of reforms). We do not consider it appropriate to grant a right of appeal against the decisions of F. C. R. courts based on the Jirga findings. Provisions should, however, be made for the delegation of the revisional powers of the A. G. G. to some experienced Judicial Officers in the province.

The reform or abolition of the customary law, and the Jirga system and the introduction of Shariat law should be left to be dealt with by the provincial legislature.

## V. SARDARI SYSTEM

No chances should be made immediately in the Sandeman system prevalent in the province. This matter should be left to the Legislature of the province, but it is expected that the Provincial Government would take all possible measures, if necessary, for the gradual replacement of levies by the regular police.

## APPENDIX

*A Note on the financial position of Baluchistan under the proposed Reforms by Mr. M. A. Mozaffar, Financial Adviser to the Baluchistan Administrative and Constitutional Reforms Committee.*

*Existing Position.*—Baluchistan is at present a centrally administered area and the revenue receipts and expenditure met from revenue are booked under respective heads of account in the Central Section. The expenditure incurred in Baluchistan can broadly be divided into two categories, namely :—

- (i) Expenditure incurred in connection with the functions which fall within what is commonly known as provincial field, and
- (ii) Expenditure pertaining to central subjects, *e.g.*, Defence, Tribal Areas, Communications etc.

2. A separate demand is presented to the Legislature in respect of Baluchistan which covers almost all the items falling under (i) above with the exception of a few other items which are provided for in other demands, *e.g.*, irrigation charges, interest on debt and pension. The two statements 'A' and 'B' attached show separately budget figures of the revenue receipts and service expenditure of provincial nature under major heads of accounts. The financial position during the year 1950-51 and 1951-52 is as follows :—

*Summary of revenue receipts and service expenditure pertaining to provincial subjects.*

	1950-51 Budget Estimates	1951-52 Budget Estimates
(In lakhs of rupees)		
Revenue receipts	44.97	49.78
Expenditure met from Revenue	114.67	123.86

The budget estimates of the current year thus show a deficit of Rs. 74 lakhs against Rs. 69.70 lakhs in the estimates for the previous year.

3. *Position under the Reforms.*—So far the deficits have been met by the Centre but on the elevation of Baluchistan to the status of a province it will have to manage its own finances. The sources of revenue available to the province are not susceptible of substantial expansion. For the present we may assume that the revenue receipts of the new province would be of the order of Rs. 50 lakhs in the light of the figures indicated in Statement 'A'.

The increase in expenditure will fall under two categories :—

- (i) Expenditure incidental to the new set up. This will mainly fall under major head "25—Administration" and
- (ii) Expenditure incurred on social and nation-building activities.

With the establishment of a Governor's province, the public opinion will make itself felt in the shape of demands for increased amenities and better facilities under Education, Medical and Public Health. The increase under this head will be gradual and, therefore, at this stage it would be difficult to assess the probable increase that will be necessary in the first few years of the establishment of the new province. Recently, the Central Government have allotted Rs. 80 lakhs to Baluchistan (including States) for expenditure on social uplift. The present level of expenditure upon these subjects works out to Rs. 23 lakhs per annum including Rs. 1 lakh for 'B' Areas. The province will have to be fed by the Centre by additional grants if it has to continue its activities on social uplift. That, however, will depend on the availability of a substantial surplus in the Central budgets. It is difficult at this stage to forecast with confidence future events and it would not be correct to assume that the present level of surplus in the Central budget would continue. Even so, assuming that the amount allocated to Baluchistan will be spent during the two years following the reforms, some additional funds will be required for meeting recurring expenditure on the approved schemes. It will be difficult for the province to meet this extra expenditure from their revenues. In order to ensure that the expenditure already incurred on social uplift does not prove infructuous, it will be necessary to supplement the subvention by an additional grant of Rs. 20 lakhs (25% of Rs. 80 lakhs representing recurring expenditure) per. annum after the first two years of the reforms.

4. *Immediate Prospective Increases.*—The details of the provisions made under major heads "25—Administration" in the provincial budgets of Sind, N.-W. F. P. and Baluchistan for the year 1951-52 are summarised below :—

( In lakhs of rupees )  
1951-52

<i>Minor/Sub-heads.</i>	Sind	N.-W.F.P.	Baluchistan
(a) Head of province	2.87	2.09	.68
(b) Cabinet	5.44	1.35	...
(c) Legislature including Legislative Department	3.73	1.65	...
(d) Civil Secretariat Headquarters establishment	20.16	6.71	5.97
(e) District Administration and Sub-Divisional establishment	17.73	19.59	11.63

5. In the following sub-paragraph an attempt has been made to assess the increase of expenditure under the various minor heads on the establishment of the new province.

(a) *Head of the Province.*—The expenditure in Baluchistan under this head at present relates only to the pay and establishment of the Agent to the Governor-General. The budget estimates for the current year are .68 lakhs. With the creation of the new province, a Governor and his staff will have to be appointed. As Baluchistan, financially, will be the weakest province, we can assume that the scale of pay of the Governor and the strength of his staff will be somewhat lower than those of N.-W. F. P. The increase of expenditure under this head may, therefore, be assessed at Rs. 1 lakh.

(b) *Cabinet*.—A sum of Rs. 1.25 lakhs will be required for increased expenditure on the basis of N.-W. F. P. figure which is Rs. 1.35 lakhs.

(c) *Legislature*.—It is proposed to have a House of 30 Members. The expenditure on this account in N.-W. F. P. comes to about Rs. 1.65 lakhs. As the number of Members in Legislature in Baluchistan will be about 50% of that of N.-W. F. P., we may assess the extra cost on this account to be Rs. 1 lakh per annum.

(d) *Civil Secretariat*.—The expenditure in Baluchistan works out to Rs. 5.97 lakhs. On the basis of the expenditure in N.-W.F.P. which comes to Rs. 6.71 lakhs, we may concede an increase of Rs. .50 lakhs.

(e) *Local Self-Government*.—It is proposed to establish the following local bodies :—

Municipality at Quetta.

Notified Area Committee at Ziarat.

Small Town Committees at Pishin, Chaman, Loralai, Fort Sandeman, Sibi, Usta Mohd. and Nushki.

District Boards for Quetta, Pishin, Loralai, Zhob, Sibi and Chagai.

At present the functions normally pertaining to these local bodies are performed through the agency of Government. The cost on dispensaries, educational institutions and veterinary hospitals, etc., is met by Government. When these functions are transferred to the Local Boards, it should only mean book adjustment. Government will pay to the Local Bodies contributions equal to the cost of these institutions and the Local Bodies will meet the charge out of this grant. Even so the possibility of some extra expenditure cannot be ruled out. In some cases it may be necessary to appoint a Secretary and other staff for the running of these local bodies. On a modest estimate the extra expenditure on this account would come to about Rs. 50,000.

(f) *Law Officers*.—(i) Recently Government have appointed a Legal Rememberancer and Public Prosecutor in the scale of Rs. 750—1,000. It is not clear whether it will be possible to give to this officer the duties of the post of the Advocate-General in addition. The Act, provides for the appointment of an Advocate-General. Assuming that a separate Advocate-General will not be required, we may fix extra expenditure on establishment, etc., at Rs. 5,000 per annum.

(ii) No immediate changes in the basic judicial system prevalent in the 'A' and 'B' areas have been recommended. However, a right of appeal to the Sind Chief Court has been recommended. It has been proposed that appeals should be heard by the Sind Chief Court working at Quetta in the manner of circuit judges. The extra expenditure on this account may be assessed at Rs. 1 lakh.

(g) *Public Service Commission*.—It is not necessary for a small province like Baluchistan to have a separate Public Service Commission. Even N.-W. F. P. has made joint arrangements with Punjab. The Public Service Commission of Sind and Baluchistan if formed could look after the work in Baluchistan. Contributions on this account may have to be paid. The extra expenditure on this account may be assessed at Rs. 25,000.

Extra expenditure on account of Reforms comes to Rs. 5.55 lakhs and may be rounded off to 6 lakhs.

6. It is agreed to include 'B' areas also for the purpose of the Reforms. As a result, the following expenditure hitherto debitable to Frontier Regions will have to be shown under provincial expenditure :—

	(Rupees in lakhs)
(i) Baluchistan levies ...	23.66
(ii) Additional levies Baluchistan	3.00
(iii) Roads ...	6.05
(iv) Buildings ...	2.00
(v) Establishment charges ...	2.00
(vi) Medical establishment ...	.36
(vii) Secret Service (Police) ...	.05
(viii) Educational establishment ...	.70
(ix) Subsidies ...	.06
	37.88

*Note*—Expenditure shown against items (iii) to (iv), (viii) and (ix) represents proportionate share in 'B' areas.

7. In other words, a sum of Rs. 37.88 lakhs which hitherto used to form part of expenditure on Frontier Regions as distinct from the Baluchistan Administration will have to be accounted for in the provincial budget.

8. *Pay Commission*.—It may be mentioned here that on account of Government decision regarding the payment of Trans-frontier allowance an extra expenditure of Rs. 4 lakhs will have to be incurred annually in future years. Another sum of Rs. 2 lakhs will be incurred as a result of Government decision to grant T. A. concession during leave. Extra expenditure on these accounts will, therefore, come to Rs. 6 lakhs.

9. The effects of all these changes are summarised below :—

	(Rupees in lakhs)
Budget deficit ... ... ...	74
Extra expenditure on account of Reforms	6
Transfer from Frontier Regions to Baluchistan Administration ...	38
Additional expenditure on account of Pay Commission's recommendations.	6
	124

10. It will appear from the preceding paragraphs that the Baluchistan Administration will have a net deficit of about Rs. 124 lakhs per annum and there is no prospect for wiping out this deficit unless the Centre agrees to meet this deficit by the grant of a subvention. The subvention may be paid in advance in equal quarterly instalments. At the end of five years the arrangement should be reviewed. The chances, however, are that whatever new sources of revenue the Baluchistan Administration would be able to tap, would be required for expenditure on social uplift for which very meagre provision exists at present. Nothing will, therefore, be available for relief to the Centre at least in the foreseeable future.

The amount of proposed subvention (Rs. 124 lakhs) *prima facie* would appear on the high side compared with Rs. 100 lakhs at present payable to the N.W.F.P. As explained in paragraph 9 above, the fact remains that even if no reforms are introduced in Baluchistan, the Centre will have to bear expenditure to the extent of Rs. 118 lakhs (estimated). Extra expenditure that could be attributed to the reforms, therefore, would come to Rs. 6 lakhs only.

11. *Capital Expenditure—Loans and Funds.*—In assessing the deficit no consideration has been given to expenditure debitable to a capital head of account. It will appear from statement 'C' that in the budget estimates for 1950-51 and 1951-52 provisions for Rs. 7.85 lakhs and Rs. 10.34 lakhs were made respectively. So far as Capital expenditure is concerned, it should be possible to meet this from a loan from the Centre or from receipts from the Taccavi advances already granted to the cultivators. The existing position regarding recoveries from Taccavi advances is rather unsatisfactory because the Administration has apparently been too much influenced by extraneous considerations. It is presumed that with the transfer of power it should be possible to effect greater recoveries in future. The assets on this account on 31st March, 1951, amounted to Rs. 32.23 lakhs. Including the budget provision for 1951-52 on this account (Rs. 12.15 lakhs) and making allowance for repayment (Rs. 4 lakhs) the total assets would exceed Rs. 40 lakhs. Realizations from these would form a hidden reserve for the province and in future they should be able to meet their requirements of Taccavi advances from these recoveries.

Against these assets the province should assume liability on account of G. P. Fund balances (figures not available). As the receipts on this account generally exceed the outgoings, this should not present a problem to the new province.

12. *Working Cash Balance.*—The annual expenditure of the province is estimated at Rs. 174 lakhs as shown below :—

	(Rupees in 'akhs)
Statement 'B' .....	124
Extra expenditure on account of Reforms (para. 5) .....	6
Transfer from Demand No. 33—Foreign Regions (para. 7) .....	38
Extra expenditure on account of Pay Commission (para. 8) .....	6
	174

The quarterly expenditure may be estimated at Rs. 45 lakhs. It is understood that receipts start coming in the second half of the year. Assuming that the reforms will come in from the 1st April, it would be necessary to ensure that during the first 6 months of the year the province is able to meet its expenditure. For this purpose it is suggested that a sum of Rs. 50 lakhs be paid to the province as a working balance. This together with 31 lakhs representing the contribution for the first quarter will give the province a cash balance of Rs. 81 lakhs out of which Rs. 45 lakhs will be consumed in the first quarter leaving a balance of Rs. 36 lakhs. To this will be added the second instalment of the subvention (Rs. 31 lakhs) raising the working balance to Rs. 67 lakhs. The next quarter will consume another Rs. 45 lakhs and leave the province with 22 lakhs. As the receipts will then start coming in, the province should be able to manage its affairs thereafter.

13. The requirements of the province could be summarised as below :—

- (a) A subvention of Rs. 124 lakhs payable quarterly in advance.
- (b) An additional subvention of Rs. 20 lakhs after the first two years of Reforms.
- (c) A sum of Rs. 50 lakhs as the Provincial cash balance.

14. *Acknowledgement.*—In conclusion I must acknowledge my gratitude to Messrs. Nasim Ahmad, O. S. D., Ministry of Finance, and Malik Abdur Rahman, Financial Assistant to the A. G. G. It was largely due to their ungrudging co-operation and assistance that made it possible for me to prepare this report in this short period.

## STATEMENT 'A'—REVENUE RECEIPTS—BALUCHISTAN

(In thousands of rupees)

	Revised Estimates 1950-51	Budget Estimates 1951-52
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## Principal Heads of Revenue :

Sales tax	9,00	9,00
Land Revenue	17,16	20,32
Provincial Excise	5,13	6,05
Stamps	1,81	1,84
Forests	2,47	2,38
Registration	6	6
Receipts under Motor Vehicles Act	32	33
Other Taxes & Duties	1,55	1,65
 Total Principal Heads	37,50	41,63

Irrigation, Navigation, Embankment & Drainage Works	—2,16	—94
Debt Services	1,59	1,63
Administration of Justice	1,02	1,02
Jails and Convict Settlements	38	38
Police	13	13
Education	2,19	2,00
Medical	20	20
Public Health	—	—
Agriculture	2,00	2,00
Veterinary	—	1
Miscellaneous Departments	3	4
Civil Works	40	40
Miscellaneous	1,69	1,28
Extraordinary items	—	—
 Total	... 44,97	49,78

## STATEMENT 'B'—EXPENDITURE MET FROM REVENUE—BALUCHISTAN

(In thousands of rupees)

	Revised Estimates 1950-51	Budget Estimates 1951-52
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*Direct Demands on Revenue :*

Land Revenue	6,30	6,13
Provincial Excise	1,03	1,22
Stamps	8	8
Forests	4,50	5,32
Registration	2	2
	Total	
	11,93	12,77
Irrigation Revenue Accounts	4,78	6,02
Irrigation Capital Accounts	25	31
	Total	
	5,03	6,33
Interest on Debt, etc.	30	30

*Civil Administration :*

General Administration	18,13	19,24
Administration of Justice	1,41	1,64
Jails & Convict Settlements	4,91	5,12
Police	21,68	20,90
Scientific Department	4	5
Education	10,16	13,39
Medical	6,57	7,42
Public Health,	1,32	1,33
Agriculture	10,01	11,19
Veterinary	2,86	3,02
Co-operation	11	16
Miscellaneous Departments	25	48
	Total Civil Administration	
	77,45	83,94
Civil Works	12,92	12,47
Miscellaneous	7,46	8,05
Extraordinary items	—	—
	Total	1,15,09 1,23,86